TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 147.

199 BARRELS OF WHISKEY, CHARLES ANDRE, CLAIMANT, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF TEXAS.

FILED OCTOBER 15, 1874.

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1 Circuit court of the United States for the eastern district of Texas, in the fifth circuit.

THE UNITED STATES, LIBELLANT,
against
ONE HUNDRED AND NINETY-NINE BARRELS OF Whiskey, Charles Andre, claimant and respondent; and against Charles Andre, claimant, and Gustav Oppermann, and Sam Maas, sureties upon the stipulation for the release of said property, made defendants by the decree of the district court in said cause; and against Charles Andre, claimant, Gustav Oppermann, and Sam Maas, and their sureties upon the appeal-bond in said cause, John Berlocher and John K. Spiers, made defendants by the decree of said circuit court in said cause.

No. 728.—On appeal.

Be it remembered that at a regular term of the circuit court of the United States for the eastern district of Texas, in the fifth circuit, begun and held at the court-rooms thereof, in the city of Galveston, on Monday, the 4th day of May, A. D. 1874, and continued by ad-
2 journment to and including the 27th day of May, 1874, on which said last-named day a final decree was rendered in and by said court in the cause in the caption named, the Hon. Joseph P. Bradley, associate justice of the Supreme Court of the United States, presiding as judge of said court on said day; and the said cause having been appealed by the claimant and respondent and defendants therein to the Supreme Court of the United States, the record and proceedings in said cause is here set out in words and figures following, to wit:

Monition & warrant of seizure.—Issued April 17th, 1867.

District court of the United States for the eastern district of Texas.

[SEAL.] The President of the United States of America to the marshal of the eastern district of Texas, greeting:

Whereas a libel of information hath been filed in the district court of the United States for the eastern district of Texas: D. J. Baldwin, esquire, United States attorney for the eastern district of Texas,
3 on behalf of the United States of America and on behalf of George B. Douglas, deputy marshal of said district, against One Hundred and Ninety-nine Barrels of Whiskey, for reasons in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said one hundred and ninety-nine barrels of whiskey may be cited in general and special to answer the premises, and that, all due proceedings being had, *that* the said one hundred and ninety-nine barrels of whiskey may, for the causes in said libel mentioned, be condemned, and the proceeds thereof distributed.

You are, therefore, hereby commanded to attach the said one hundred and ninety-nine barrels of whiskey, and to detain the same in your custody until the further order of the court respecting the same, and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned as forfeited and

the proceeds thereof distributed according to the prayer of the
4 said libel of information, that they be and appear before the said court, to be held in and for the eastern district of Texas, at the United States court-rooms in the city of Galveston, on the sixth day of May, A. D. 1867, at 10 o'clock in the forenoon of that day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same and to make their allegations in that behalf; and what you shall have done in the premises do you then and there make return, together with this.

Witness the honorable John C. Watrous, judge of the said court, at Galveston, in the eastern district of Texas, this seventeenth day of April, in the year of our Lord eighteen hundred and sixty-seven, and of the Independence of the United States the ninety-first year.

LEVI JONES,
Clerk District Court, E. D. T., G.

Marshal's returns.

Rec'd in office April 17, '67, and on same day seized the within-described one hundred and ninety-nine barrels of whiskey, and hold
5 the same in the public store-house in Galveston.

WM. M. VARNELL,
U. S. Marshal.
By DOUGLAS, *Dep.*

Advertised the same as by the annexed notice for 14 days in Daily Galveston Bulletin and on the door of court-house Apl. 18, '67, prior to May 6th, 1867.

WM. M. VARNELL, *U. S. M.*
NEILL, *Dep.*

Copy of printed notice by publication referred to.

UNITED STATES
v.
199 BARRELS WHISKEY. } No. 25.

United States district court, eastern district of Texas, at Galveston, May term, 1867.

By virtue of a warrant of seizure issued by the said court, and to me directed, I have seized the said one hundred and ninety-nine barrels of whiskey at Galveston.

Notice is hereby given to all persons claiming the same, or knowing or having anything to say why the said whiskey should not be con-
6 demned as forfeited, and the proceeds distributed according to the libel of information filed in said cause, to be and appear before the said court, to be holden in and for the eastern district of Texas, at the United States court-house in Galveston, on the first Monday of May, 1867, at 10 o'clock a. m. of said day, then and there to interpose claim for the same.

WM. M. VARNELL,
United States Marshall.

APRIL 18, 1867. [April 18, 14t.]

(Endorsed on back.) A 25, C. L. 723. United States district court, eastern district of Texas. Monition. Warrant of seizure. The United

States vs. One Hundred and Ninety-nine Barrels of Whiskey. Issued April 17th, 1867. Levi Jones, clk. Filed April 30, '73. C. Dart, clk.

7 *Petition of Chas. Andre, claimant, for appraisement & delivery.—Filed June 13th, 1867.*

In United States district court, eastern district of Texas.

UNITED STATES
v.
199 BARRELS OF WHISKEY.

To the hon. judge of the United States district court for the eastern district of Texas:

The petition of Charles Andre, a resident of the city of Matamoras, State of Tamaulipas, republic of Mexico, sheweth: That on the 6th day of May, A. D. 1867, he filed his answer and claim in the above-entitled case as the owner of the whiskey seized; that he is the owner thereof; that, owing to the continuance of said case upon the application of the Government, he is desirous of availing himself of the provisions of the act of Congress in relation to cases of seizure of property in any case depending in any court of the United States. Wherefore he prays your honor to be pleased to appoint one or more proper persons to inspect and guage said whiskey and make due report thereof to your honor. Also for the appointment of three disinterested persons to appraise
8 the value thereof, and due report make to your honor in respect thereto, and that your honor will then be pleased to order that said whiskey be delivered to your petitioner upon his executing, with proper surety, such bond as your honor will require, conditioned according to law, and for such other and further order as to your honor may seem right and lawful.

CHAS. ANDRE.

Subscribed & sworn to before me this 13th June, 1867.
L. JONES, *Clk.*,
Per TUCKER & LEAGUE.

GALVESTON, *June 13th*, 1867.

Hon. D. J. BALDWIN,
United States District Atty. Eastern District of Texas:

SIR: Please take notice that we will move the court in case No. 25 on the admiralty docket of the hon. United States district court at Galveston, on Monday the 17th day of June, A. D. 1867, at 10 o'clock a. m., or as soon thereafter as we can be heard, to grant the prayer of the foregoing petition.
9 Resp., &c.,

TUCKER & LEAGUE,
For Chas. Andre.

Rec'd June 13th, 1867. And on the 14th day of June, 1867, I executed this petition and notice by giving to D. J. Baldwin, attorney for the United States, a true copy hereof as certified by the clerk of this court.
JAMES J. BYRNE,
U. S. Marshal.

(Endorsed:) 25. C. L. 728. In admiralty. United States vs. 199 Barrels Whiskey. Filed 13th June, 1867. L. Jones, clk. Pet'n of Charles Andree, claimant, for appraisement and delivery. Filed April 30th, 1873. C. Dart, clerk.

Order appointing gauger and appraisers.

From the minutes May term. June 17th, 1867.

UNITED STATES
v.
199 BBLS. WHISKEY. } A 25.

10 In this case the claimant, Charles Andre, presented his petition, filed in this cause on the 13th inst., asking the inspection and appraisement of the 199 barrels of whiskey levied upon and held in custody by the marshal, by competent persons appointed by the court, &c*ts*, and the court proceeded to appoint as follows: Wm. Crooks, inspector of spirits for the custom-house at Galveston, to gauge and inspect said whiskey, and John S. Sydnor, John Burlocher, and Wm. Barnes, appraisers to appraise the same and report to this court.

Appraisement.—Filed June 20th, 1867.

United States district court, eastern district of Texas.

UNITED STATES
vs.
199 BARRELS WHISKEY. } No. 25.

To the Hon. John C. Watrous, judge of the United States district court for the eastern district of Texas:

William Barnes, J. S. Sydnor, and John Berlocher, appointed by your honor appraisers to appraise the goods mentioned in the above-
11 entitled suit, respectfully report that they have carefully examined and appraised the same, which consists, according to the report of William Crooks, *gua*ger & inspector, of 199 barrels of whiskey, *gua*ged to contain eight thousand fifty & ½ gallons, less the actual waistage to date of seven hundred and thirty-four gallons, leaving the contents of said barrels seven thousand three hundred sixteen & ½ gallons of whiskey, of which the average proof is forty-three per cent., which we designate and appraise as follows:

100 bls. of Mountain D*ue*, averaging 36 & $\frac{76}{100}$ gallons each; total, 3,676½ gals.; we value at 90 cts. per gallon.....	$3,308 95
85 bls. of Bourbon, averaging 36 & $\frac{76}{100}$ gallons each; total, 3,124½ gallons; we value at 90 cts. per gallon.....	2,812 05
14 bls. of Premium, averaging 36 & $\frac{76}{100}$ gallons each; total, 515½ gallons; we value at $1.00 per gallon	515 50
199 bls. containing 7,316½ gallons; total	$6,636 50

All of the above whiskey is considerably below proof, and if forced on the market would not realize probably the above rates and valuation.

J. S. SYDNOR.
WILLIAM BARNES.
JOHN BERLOCHER.

12 Subscribed and sworn to before me this 20th day of June, 1867.
LEVI JONES, *Clerk.*

(Endorsements:) 25. C. L. 728. United States vs. 199 Bbls. Whiskey. Appraisement. Filed 20th June, 1867. Levi Jones, clk. Filed April 30th, 1873. C. Dart, clerk.

Delivery bond.—Filed 24th June, 1867.

Know all men by these presents that we, Charles Andre, Gustave Opperman, and Sam Maas are held and firmly bound unto the United States of America in the sum of thirteen thousand two hundred and seventy-five dollars, lawful money of the United States of America, to be paid to the said United States, to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, our and each of our heirs, executors, and administrators firmly by
13 these presents. Whereas a libel of information has been filed in the district court of the United States for the eastern district of Texas, on the 16th day of April, 1867, by D. J. Baldwin, United States district att'y, against one hundred and ninety-nine barrels of whiskey, in a certain action, No. 25, for the reasons and causes therein mentioned, valued by the appraisers at six thousand six hundred and thirty-six $\frac{50}{100}$ dollars; the condition of this obligation is such that if the above-bound Charles Andre shall abide and answer the decree of the court in such cause, then the above obligation to be void; otherwise to remain in full force and virtue. Ten words interlined.

Witness our hands this 21st day of June, 1867.

CHAS. ANDRE.
G. OPPERMAN.
SAM MAAS.

We, Gustave Opperman and Sam'l Maas, on oath, say that we are each worth the sum of fourteen thousand dollars over and above all our just debts and liabilities.

14 G. OPPERMANN.
SAM MAAS.

Subscribed & sworn to before me this 21st day June, 1867.
LEVI JONES, *Clk.*

(Endorsements:) No. 25. C. L. 728. United States vs. 199 Bbls. Whiskey. Bond. Filed 24th June, 1867. L. Jones, clk. Filed April 30, '73. C. Dart, clk.

Claimant's stipulation for costs.—Filed May 30, 1867.

In United States district court for the eastern district of Texas.

THE UNITED STATES
vs.
199 BARRELS OF WHISKEY. } 25.

Whereas a libel of information was filed in this court on the 16th day of April, A. D. 1867, by Hon. D. J. Baldwin, the United States at-
15 torney for said district, against 199 barrels of whiskey for the reasons & causes in said libel mentioned, and praying for condemnation & sale thereof.

And whereas a claim has been filed therefor by Charles Andre, the said claimant, and sureties hereto, consenting that in case of default or contumacy on the part of said claimant or his sureties, execution for the sum of five hundred dollars may issue against their goods, chattels, or lands:

Now, therefore, for the benefit of whom it may concern, that the undersigned stipulate and agree that they shall be, and are hereby, bound in the sum of five hundred dollars, conditioned that said Charles Andre shall pay all costs and expenses which shall be awarded against them by the final decree of this court, or upon an appeal by the appellate court.

CHAS. ANDRE.
G. SCHMIDT.
G. OPPERMANN.

Taken & acknowledged this 30th day of May, A. D. 1867.
L. JONES, *Clerk.*

16 We, on oath, do say that we are residents of Galveston, in said district, and are each worth the sum of five hundred dollars over & above all just debts & liabilities.

Sworn to.

G. SCHMIDT,
G. OPPERMANN.

Subscribed & sworn to before me this 30th May, 1867.
L. JONES, *Clk.*

(Endorsements:) 25. C. L. 728. United States v. 199 Barrels of Whiskey. Claimant's stipulation. Filed 30th May, 1867. L. Jones, clk. Filed April 30, '73. C. Dart, clerk.

Order for delivery of whiskey to claimant.

From the minutes May term. June 24th, 1867.

UNITED STATES } A 25.
vs
199 BBLS. WHISKEY.

17 On this day came Charles Andre, claimant in the above-entitled cause, and having filed his bond, duly approved by the court, as required by the court in this cause, and having complied with all the orders of the court herein, it is ordered, adjudged, and decreed that said one hundred and ninety-nine barrels of whiskey be delivered to said Andre, claimant, and that an order issue to the marshal, by the clerk, to put him in possession thereof, and that prior thereto the marshal put such mark or marks on said whiskey that no possible mistake shall occur as to its identity, and that the bill of charges set out in the suggestions of Milton Stapp, esquire, collector of internal revenue, be caused to abide the final determination of this suit.

Order to deliver whiskey & return of marshal.—Issued June 24th, 1867.

United States district court, eastern district of Texas, at Galveston, June 24th, 1867.

UNITED STATES } 25.
vs.
199 BBLS. WHISKEY.

18 On this day came Charles Andre, claimant in the above-entitled cause, and having filed his bond, duly approved by the court,

as required by the court in this cause, and having complied with all the orders of the court therein, it is ordered, adjudged, and decreed by the court that said one hundred and ninety-nine barrels of whiskey be delivered by the marshal to said Andre, claimant, irrespective of any claim by Milton Stapp, esq., or other person claiming storage thereon, and that prior to the delivery of said whiskey the marshal so mark and designate the same that no mistake shall possibly occur touching its identity.

To the marshal of the eastern district of Texas:

SIR: As required by the closing paragraph of the decree of the court in the above-entitled cause, I have issued this, that you may be apprised of so much thereof as relates to your duty, that, having notice thereof, the will of the court expressed in the premises may be fully carried out.

19 [SEAL.] LEVI JONES,
Clerk District Court E. D. T. G.

Marshal's return.

Received June 24th, 1867, and on July 2d day, of same year, I delivered to the within-named Charles Andre one hundred and ninety-six barrels of whiskey, Mr. Lee, the keeper of the bonded warehouse, de*nig*ing that more than that number had been received by him.

JAS. J. BYRNE, *U. S. M.*,
By M. K. CANFIELD, *Deputy.*

(Endorsements:) Ad. 25th. C. L. 728. Notice to the marshal. Filed Dec'r 23d, 1867. Levi Jones, clk. Filed April 30th, '73. C. Dart, clk.

Libel of information.—Filed April 16th, 1867.

In the district court of the United States of America for the eastern district of Texas, at Galveston.

To the honorable John C. Wartrous, judge of the said court:

20 Be it remembered that on this 15th day of April, A. D. 1867, before the Hon. John C. Watrous, judge as aforesaid, comes, in his own proper person, D. J. Baldwin, esquire, attorney of the United States for the said district, and in the name and behalf as well of the United States as of George P. Douglas, deputy marshal for said district, and of all other persons concerned, and propounds and gives the said judge to understand and be informed that on the 18th day of March, A. D. 1867, at Galveston, in the district aforesaid, and on waters navigable from the sea by vessels of ten or more tons burden, Milton Stapp, esqr., collector of internal revenue at Galveston aforesaid, did seize the following goods, wares, merchandise, and distilled spirits, to wit, one hundred and ninety-nine barrels of whiskey, and now hath the same in his custody as being forfeited for the causes hereinafter mentioned, to wit:

First. For that heretofore, to wit, on the 18th day of March, A. D. 1867, at Galveston aforesaid, the said distilled spirits, being subject to the payment of internal-revenue tax and duty before the same should be removed otherwise than into

§ 45, 14 Stats., 163.

21 a bonded warehouse, were removed otherwise than into a bonded warehouse without the internal-revenue tax or duty thereon chargeable by law having been paid.

Second. For that no lawful or genuine inspector's brand was ever put upon said distilled spirits, and said spirits were removed for sale, in fraud of the law and with intent to evade payment of the duties and taxes thereon chargeable by law, and were fraudulently and illegally branded and marked.

§ 43.

Third. That the said barrels of distilled spirits, when found by the said collector, had never been inspected, gauged, proved, or marked, as required by the statute in such case made and provided, and were fraudulently and illegally marked and branded.

Fourth. That all and singular the premises are true; wherefore the said attorney prays that process in due form of law issue against the said goods, wares, merchandize, and distilled spirits to enforce the forfeiture thereof, and requiring notice to be given to all persons concerned in interest to appear and show cause, on the return-day of the said process, why such forfeiture should not be decreed.

22

D. J. BALDWIN,
U. S. Dist. Attorney.

(Endorsements:) A. 25. C. L., 728. The United States of America vs. One Hundred and Ninety-nine Barrels of Whiskey. Information filed 16th April, 1867. L. Jones, clk. Issued April 17th, 1867. Levi Jones, clerk. The clerk will issue the process prayed. John C. Watrous, U. S. judge. Filed April 30, '73. C. Dart, clk.

Amendment to libel.—Filed May 27th, 1867.

In the U. S. district court, eastern district of Texas, May term, A. D. 1867.

THE UNITED STATES
vs.
199 BARRELS OF WHISKEY. } No. 25. Libel of information.

23

And now comes D. J. Baldwin, attorney of the United States, and, on behalf of the said United States, by leave of the court for that purpose first had, amends the libel herein and distinctly propounds, by way of amendment and addition to the libel herein, as follows:

30 June, '64, § 2, 13 Stats., 202. 3 Mar., '65, § 2, 13 St., 491. 2 R., 166, § 51, 176, § 70. B., 375-6.

That said whiskey was liable to payment of duties of two dollars and fifty cents per gallon upon its being introduced into the United States, and was introduced into the United States from Mexico, a foreign country, without such duties having been paid, and such duties remain now wholly due and unpaid, and are a lien upon them, the spirits aforesaid, till payment of the duties aforesaid is made, and a decree is prayed for the enforcing of the payment of such duties.

14 Stats. 330, § 12.
14 " 328, § 1.

D. J. BALDWIN,
U. S. Dist. Atto.

(Endorsements:) 25. C. L. 728. The United States of America vs. 199 Barrels Whiskey. Amendment of libel. Filed 27 May, 1867. L. Jones, clk. Filed April 30, '73. C. Dart, clk.

Gen'l issue of claimant.—Filed Feb'y 5th, 1868.

In U. S. district court at Galveston.

UNITED STATES
vs.
199 BARRELS OF WHISKEY. } In ad. No. .

And now comes Charles Andre, claimant in above-entitled case, and,

answering, says that the several goods or barrels of whiskey in the information mentioned did not, nor did any part thereof, become forfeited in manner & form as in the information in that behalf alleged; wherefore he prays judgment.

P'r TUCKER & LEAGUE,
Proctors.

(Endorsements:) No. 25. C. L. 728. United States v. 199 Barrels of Whiskey. Gen'l issue of claimant. Filed Feb'y 5, 1868. Levi Jones, clk. Filed April 30th, 1873. C. Dart, clk.

25 *Claim & answer of Chas. Andre.—Filed May 6th*, 1867.

In the United States district court at Galveston.

UNITED STATES
vs.
199 BARRELS OF WHISKEY.

To the Hon. John C. Watrous, judge of the district court of the United States for the eastern district of Texas:

The answer and claim of Charles Andre, merchant, a resident of the city of Matamoras, in the State of Taumulipas, and republic of Mexico, intervening for his interest in one hundred and ninety-nine barrels of whiskey, to the information filed by the Hon. D. J. Baldwin, district attorney of the United States for said district, alleges as follows:

First. That he is the sole and lawful owner of said whiskey; that he, in the month of February last, was and now is in business at said Matamoras as a merchant; that at said Matamoras, between the 1st and 12th days of February, A. D. 1867, he, in the regular course of business, in open market, purchased, among other goods, wares, and merchandize, the whiskey in the information in this case mentioned, and paid
26 the value thereof in money; and that said whiskey was then and there delivered to him, a portion at said Matamoras and the remainder thereof at Bagdad, in the same State and republic.

Second. That said whiskey was then, and, so far as this claimant is informed, now is, an article of merchandise, the importation whereof into the United States, subject to the payment of duties fixed by the laws of the United States in relation to imported goods of that class, is allowed; and that by law he had the right to import the same.

Third. That on the 12th day of February, A. D. 1867, he applied to Richard L. Robertson, the United States collector of duties for the district of Brazos de Santiago, for permission to import said whiskey, in the packages as purchased, which permission was granted; that he accordingly, openly, in the day-time, upon a public ferry or steamboat transported from said Matamoras to Brownsville, in the district of Brazos de Santiago, entered them at the custom-house of said district, and, by bond, secured the duties thereon, according to law, and
27 secured from the proper officer of the customs in said custom-house the usual certificate thereof, and sent said whiskey forward to Indianola and Galveston, (within the jurisdiction of this hon. court,) for a market.

That all and singular the premises are true and in accordance with the law; that he intended to and verily believes that he has in all things complied with the law; that the officers of the internal revenue have no right nor claim to or upon said whiskey; that it is not subject to the

internal-revenue tax of the United States, and he prays judgment that the proceedings against said whiskey may be held for naught, and that said whiskey be delivered and restored to him.

CHAS. ANDRE.

Subscribed & sworn to before me this 6th May, 1867.

L. JONES, *Clk.*

28 (Endorsements:) No. 25. C. L. 728. United States v. One Hundred and 99 Barrels of Whiskey. Claim & answer of Chs. Andre. Filed 6th May, 1867. L. Jones, clk. Filed April 30, 1873. C. Dart, clerk.

Amended answer.—Filed June 2, 1868.

UNITED STATES
v.
199 BARRELS OF WHISKEY. } 25. In admiralty.

To the Hon. J. C. Watrous, judge, &c.:

The claimant, Charles Andre, by leave of the court, for that purpose first had & obtained, after the amendment to the libel of information, filed 27th May, A. D. 1867, files this his amended answer and says that all the requirements of the laws of the United States relating to said whiskey had been complied with previous to the seizure of said
29 199 barrels of whiskey; that the whiskey had been duly proved & marked, *guaged* & inspected, and the barrels properly branded by the lawful officers of the United States duly appointed for that purpose, and that all duties and taxes required by law had been paid thereon, and the claimant says that all things in the original or amended libel of information to the contrary are untrue, and he denies the same, and prays judgment, &c.

CHAS. ANDRE.

Subscribed & sworn to by Charles Andre before me June 2d, 1868.

LEVI JONES, *Clerk.*

(Endorsements:) 25. C. L. 728. United States vs. 199 Barrels of Whiskey. Amended answer. Filed June 2d, 1868. Levi Jones, clk, Filed April 30th, 1873. C. Dart, clk.

30 *Deposition of Alexr. Hall for libellant.—Filed April 30th, 1873.*

THE UNITED STATES OF AMERICA
vs.
199 BARRELS OF WHISKEY, CHARLES ANDRE, claimant. } No. . In admiralty.

Deposition de bene esse of Alexander Hall, a witness of lawful age, whose testimony, when taken and reduced to writing, is to be read in evidence on the trial of a cause now pending in the district court of the United States for the eastern district of Texas, at Galveston, wherein the said United States is plaintiff and One Hundred and Ninety-nine Barrels of Whiskey is defendant, on the part of the plaintiff

And the said witness being by me, F. J. Parker, clerk of the district court of the United States for the eastern district of Texas, at Brownsville, first duly cautioned and sworn, deposes and says:

That his name is Alexander Hall, forty years of age, a merchant,

and resident of Brownsville, Texas, for the last twelve months; that his intention is to shortly remove to Mexico; that he is acquainted
31 with Charles Andre, who is living and doing business in Mexico; that he knew of Andre's having purchased about two hundred barrels of whiskey in the city of Matamoras, Mexico, from one Antonio Erhard, on or about the first of February, A. D. 1867; that the said whiskey was entered at the custom-house at Brownsville, in the district of Brazos de Santiago; and was shipped from Bagdad, in Mexico, to the said Brazos, and from thence on the schooner Island Belle to Galveston; that the shipping-marks upon the said whiskey were A M E upon each barrel; that the said Antonio Erhard offered him, witness, the invoice of the said whiskey, a part at sixty and a part at seventy-five cents a gallon, but that he declined to purchase at that price, and that subsequently it was sold to the said Andre at fifty-five cents per gallon.

That said whiskey was of American manufacture, and was imported from New Orleans, Louisiana, into Matamoras, Mexico; that it was shipped from New Orleans on the 20th day of June, A. D. 1866, on the British schooner Village Belle, consigned to the said Antonio
32 Erhard, at Matamoras, and duly entered at the Matamoras custom-house, and landed at that port.

That the said whiskey was marked at Brazos de Santiago, on board the said schooner Island Belle, with the custom-house brand by Mr. Mansur, an inspector of customs, as he himself informed him, witness; that he, witness, never examined the said barrels of whiskey to see if the internal-revenue brands were on them or not. The Island Belle sailed, as witness believes, from Brazos about the last of February, A. D. 1867.

ALEXANDER HALL.

And I, the said clerk of the court aforesaid, do hereby certify that on the 21st day of November, A. D. 1867, I caused the said witness, Alexander Hall, to be and appear before me, at my office, in Brownsville aforesaid, to testify in behalf of the United States in the cause aforesaid, at the request of D. J. Baldwin, esq., United States district att'y for said district, for that, and I further certify that the said witness, Alexander Hall, is about, upon his own confession, to go out of the United
33 States, and out of the jurisdiction of this court, and that he lives more than one hundred miles from the place of holding court, to wit, in Brownsville aforesaid, and more than one hundred miles from the residence of any attorney of record of the claimant Andre, and that the said claimant is himself a resident of a foreign country. And I further certify that the said witness, Alexander Hall, was first by me duly cautioned and sworn, and that his testimony was reduced to writing by me in his presence, and that the same was duly signed by him after being by him first read and approved; and further certify that I am not of counsel or attorney to either party herein, or interested in the event of this cause, and that I have retained these depositions in my hands to be, after due signing and sealing, delivered into the hands of the said D. J. Baldwin, esq., to be by him delivered to the clerk of said court as Galveston.

In testimony whereof I have hereunto set my hand and seal of said court, at Brownsville, this 21st day of November, A. D. 1867.

[SEAL.] F. J. PARKER,
Clerk Dist. Court U. S., East. District Texas.

Unpaid fee, $5.00.
F. J. PARKER, *Clerk.*

Foregoing deposition of Alexander Hall endorsed: Filed April 30th, 1873. C. Dart, clerk. C. L. 728.

Deposition of Octave Aubert for libellant.—Filed April 30, 1873.

THE UNITED STATES OF AMERICA vs. 199 BARRELS WHISKEY, CHAS. ANDRE, CLAIMANT.	No. .	In admiralty.

Depositions de bene esse of Octave Aubert, a witness of lawful age, whose testimony when taken is to be read in evidence on the trial of a certain cause now pending in the district court of the United States for the eastern dist. of Tex., at Galveston, wherein the said United States is plaintiff and One Hundred and Ninety-nine Barrels of Whiskey are defendant, on the part of the plaintiff.

And the said witness, Aubert, having been by me, F. J. Parker, clerk of the district court of the United States for the eastern district of Texas, at Brownsville, first duly sworn and qualified, deposes and says:

That his name is Octave Aubert; twenty-one years of age; resi-
35 dent of Brownsville, Texas, and for some two years and more an employee in the custom-house at that place, both, at times, as entry-clerk and book-keeper; that on the 12th day of February, 1867, one Charles Andre entered at the custom-house here one hundred wagons, three hundred barrels of whiskey, &c., returned, upon which "no drawback allowance or bounty has been allowed," and a bond was taken to that effect, to produce the certificate from the proper collectors of customs, to wit, New York and New Orleans, according to law, in six months.

The proper custom-house documents were made and passed at the custom-house at Brownsville, by R. L. Robertson, collector, on the above date, and the proper certificates having been produced within the time prescribed by law from said New York and New Orleans collectors, the said bond was cancelled as to the said whiskey, by H. M. Field, deputy collector of said district; that he, witness, never saw the said barrels of whiskey, and cannot swear that the internal-revenue brands were on them, and that he knows that no import-duty was paid upon the
36 said whiskey at the custom-house here; and further witness sayeth not.

OCTAVE AUBERT.

And I, the said clerk of the court aforesaid, do hereby certify that on this 22d day of November, A. D. 1867, I caused the said Octave Aubert to be and appear before me at my office in Brownsville, in said district, to testify on behalf of the said United States in the cause aforesaid, at the request of D. J. Baldwin, esq., att'y of the United States for said district for that; and I do further certify that the said witness lives more than one hundred miles from the place of holding court, to wit, in Brownsville aforesaid, and more than one hundred miles from the residence of any attorney of record of said claimant, and that the said claimant Andre is resident of a foreign country, and does not reside in said district of Texas.

And I further certify that the said witness Aubert was first by me duly cautioned and sworn, and his testimony reduced by me to writing in his presence, and the same signed by him before me, after be-

37 ing by him first read and approved. And I further certify that I am not of counsel or attorney to either party, nor interested in the event of this cause, and that I have retained these depositions in my hands for the purpose of sealing and delivering them to the said D. J. Baldwin, to be by him delivered to the clerk of said court at Galveston.

In testimony whereof I have hereunto set my hand and seal of court at office in Brownsville, this 22d day of November, A. D. 1867.

[SEAL.] F. J. PARKER,
Clerk U. S. Dist. Ct. East. Dt. Tex.

(Endorsed:) C. L. 728. Filed April 30, '73. C. Dart, clerk.

Deposition of J. S. Mansur for plaintiff.—Filed April 30th, 1873.

THE UNITED STATES OF AMERICA
vs.
199 BARRELS WHISKEY, CHAS. ANDRE, CLAIMANT. } No. . In admiralty.

Deposition de bene esse of J. S. Mansur, a witness of lawful age,
38 whose testimony, when taken and reduced to writing, is to be read in evidence on the trial of the certain cause now pending in the district court of the United States for the eastern district of Texas, at Galveston, wherein the said United States is plaintiff and One Hundred and Ninety-nine Barrels of Whiskey are defendant, on the part of the plaintiff.

And the said witness being by me, F. J. Parker, clerk of the district court of the United States for the eastern district of Texas, at Brownsville, first duly cautioned and sworn, deposes and says:

That his name is J. S. Mansur, thirty-four years of age, and a resident of Brazas Santiago for the last two years; that he was an inspector of customs at Brazos Santiago when, on or about the 21st day of February, A. D. 1867, the Mexican steamer Eugenia arrived from Bagdad with, among other things, three hundred barrels of whiskey, said to be the property of Charles Andre; that as such inspector of customs he was ordered to discharge the said steamer, and that
39 he put the said three hundred barrels of whiskey on board the schooner Island Belle; that he was further ordered to brand the said whiskey with the custom-house brand, to wit, "U. S. inspect'on district Brazos Santiago," which he did; that there was as many as four different brands on the said whiskey, but that having lost his memorandum-book in the late storm at Brazos, he cannot now recollect what they were; that there is one brand, however, which he recollects, thus, S , among others, and that he thinks one hundred barrels of the said whiskey had the U. S. internal-revenue brand upon them, but is not certain, and that his recollection is the balance of the barrels were not so branded.

That the Island Belle cleared on the 9th Feby., 1867, for Galveston, but that after receiving the said whiskey on board, she again cleared for Indianola, Texas, but not being in the office, he, witness, does not know whether the first set of clearance-papers were cancelled or not.

The said first clearance was in ballast. Witness received the orders referred to herein from H. M. Field, dep'ty collector.

J. S. MANSUR.

40 And I, the said clerk of the court aforesaid, hereby certify that on the 22d day of November, A. D. 1867, I caused the said witness, J. S. Mansur, to be and appear before me at my office in Brownsville aforesaid, to testify on behalf of the United States in the cause aforesaid, at the request of D. J. Baldwin, esq., att'y of the United States for said district, for that; and I further certify that the said witness lives more than one hundred miles from the place of holding court, to wit, at Brazos aforesaid, and more than one hundred miles from the residence of any attorney of record of the said claimant, and that the said claimant, Andre, is resident in a foreign country. And I further certify that the said witness, Mansur, was first by me duly sworn and cautioned, and that his said testimony was reduced to writing by me in his presence, and that the same was signed by him after being by him first read and approved. And I further certify that I am not of counsel or attorney to either party, or interested in the event of this cause, and that I have retained these depositions in my hands
41 for the purpose of sealing and delivering them into the hands of the said D. J. Baldwin, to be by him delivered to the clerk of the said court at Galveston.

In testimony whereof I have hereunto set my hand and seal of court, at Brownsville, this 22d day of November, A. D. 1867.

[SEAL.] F. J. PARKER,
Clerk East. Dist. Tex., at Brownsville.

Fee, $5. Not paid.

(Endorsed:) C. L. 728. Filed April 30, '73. C. Dart, clerk.

Statement of facts.—(*Filed July* 24, 1869.)

In the district court of the United States for the eastern district of Texas, at Galveston. December term, 1868.

THE UNITED STATES OF AMERICA *vs.* 199 BARRELS WHISKEY. } No. 25. Libel for condemnation & forfeiture.

42 Be it remembered, that on the trial of this cause, after the reading of the original and amended libel of information, and the answer and amended answer, and claim of the claimant, Charles Andre, the said claimant introduced in evidence in his behalf the certificate of the collector of customs at Brownsville, showing that the property mentioned in the permit and landing-certificate were regularly entered at said custom-house and re-imported into the United States in accordance with the entry, permit, and landing-certificate hereinafter incorporated, which certificate of said collector has been mislaid and cannot be here inserted.

Sec. 8, art. 242, of Genl. Regulations, Treas'y Dept.

The claimant then introduced and put in evidence the landing-certificate and written statement of Octave Aubert thereto appended, and hereto annexed, marked "Paper A," and made part hereof.

Also, the charter-party of the vessel Island Belle, with the written statement of Frank A. Benter appended, hereto annexed, marked "B."

Also, the bill of lading of the said Island Belle and receipt of Robt. B. Stapp appended, hereto annexed, and marked "C."

43 And this was all the testimony offered by the claimant, and here follows, to wit:

Landing-certificate.

DISTRICT OF BRAZOS DE SANTIAGO,
Port of Brownsville;

Paper A. These are to certify that in the ferry-boat , , master, from Matamoras, Mex., arrived February 12th, 1867, were imported: Three hundred barrels whiskey, 11,005 galls.; one hundred pair ox-cart wheels; one hundred wooden axle-trees; two boxes linchpins; three boxes cont'g one grave-yard monument, consigned to Charles Andre; and that the above-described merchandise has been landed in this district, and the duties having been paid or secured thereon.

Given under our hand and seal of office, at the custom-house, this 12th day of February, 1867.

[SEAL.] O. AUBERT,
For Collector.

Paper A.—(Filed May 27th, 1867.)

UNITED STATES
vs.
199 BARRELS OF WHISKEY. } Ad. docket, No. 25. Infor. filed 16 April, 1867.

44 UNITED STATES
v.
100 BARRELS OF WHISKEY. } Ad. docket No. Infor. filed 16 April, 1867.

In United States district court, eastern district of Texas.

Statement of O. Aubert, called by the claimant as a witness in the above numbered and entitled cases, now depending in said court, which it is agreed by the district attorney for the United States with the claimant may be read as evidence on the trial of either or both of said cases without objection as to form of testimony or manner of taking.

Octave Aubert on oath says that on the 12th day of February, A. D. 1867, he was, and now is, an entry-clerk employed in the United States custom-house at Brownsville, Texas, in the district of Brazos de Santiago; that it is the custom of said office for the entry-clerk to sign permits, landing-certificates, and all other papers relating to custom-house duty by the laws of the United States for the collector of customs for said district; that he had, and now has, authority in writing, signed by
45 said collector, R. L. Robertson, esq., so to sign for him; that such was the practice under the former collectors of said district; that on the 12th day February, A. D. 1867, he, for said collector, issued a landing-certificate to Charles Andre, of Matamoras, Mexico, certifying that in the ferry-boat from Matamoras there had arrived and were imported 300 barrels whiskey, 11,005 gallons; 100 pair ox-cart wheels, 100 wooden axle-trees, two boxes linchpins, three boxes containing one grave-yard monument, consigned to said Andre, and that the above-described merchandise had been landed in said district and the duties paid or secured thereon; that said certificate was sealed with the seal of office and was
A signed thus, "O. Aubert, for collector;" that the certificate annexed hereto he recognizes as the original certificate so issued; that a bond
tl was executed to the United States for the sum of about seventy-three
n thousand dollars, ($73,000.00,) and was signed Charles Andre, as princi-

pal. and M. de Lians as surety, conditioned that proper certificates to show that the articles were manufactured in the United States
46 and all taxes paid thereon would be produced within six months thereafter, or that they should pay the customary custom-house duty required upon such articles of foreign manufacture, which bond was duly approved. I further say that the signers of said bond are regarded as solvent business men, and are ample security to insure the payment of said sum of money in case of failure to comply with the condition of said bond. I further state that I instructed the deputy collector, H. M. Field, to have the customary United States brand placed on the merchandise so imported; that said importation was publicly made, without concealment and in the customary manner, as required at the custom-house of the United States.

O. AUBERT.

Subscribed and sworn to May 27, A. D. 1867, before me.

LEVI JONES,
Clerk.

We consent to the reading of the foregoing statement as evidence, as stated in the caption thereto, and admit the facts stated to be true.

D. J. BALDWIN,
U. S. Dist. Atto.
TUCKER & LEAGUE,
For Chas. Andre.

47 (Endorsed on foregoing:) Paper A. Nos. 25 & 26. The United States vs. 199 Barrels Whiskey; 100 Barrels Whiskey. Filed 27th May, 1867. L. Jones, clk. Paper A.

Paper B.—Charter-party.

(Written across the face:) A commission of five per cent. is due on this charter-party to Mr. Thos. Caden.

Charter-party made and concluded upon this fifteenth day of February, 1867, between Captain Fowler, master of the American schooner Island Belle, of New Orleans, of the burthen of one hundred and $\frac{12}{100}$ tons or thereabouts, now lying at the port of Brazos Santiago, of the first part, and Chas. Andre, of the second part, witnesseth, that the said party of the first part, for and in consideration of the covenants and agreements hereinafter mentioned, to be kept and performed by the said party of the second part, do covenant and agree on the freighting & chartering of the said vessel unto the said party of the second part for a voyage from the port of Brazos Santiago to the port of ,
48 at the option of the party of the second part either Indianola or Galveston, on the terms following, that is to say, the said party of the first part does engage that the said vessel, in and during the said voyage, shall be kept tight, staunch, well fitted, tackled, and provided with every requisite, and with men & provisions necessary for such a voyage; and does further engage to take and receive on board the said vessel about three hundred barrels of whiskey and three boxes, containing one grave-yard monument, also about eighty to one hundred pairs of ox-cart wheels with wooden axle-trees, more or less; and the said party of the second part does further engage to pay to the party of the first part, or his agent, for the freight of said three hundred

barrels of whiskey and three boxes containing one monument, the sum of four hundred and twenty-five dollars in specie; and, further, for each pair of ox-cart wheels and wooden axle-tree two dollars in specie; the whole of said cargo to be loaden under deck.

The party of the second part further agrees to provide for a
49 steamboat to tow the said schooner across and over the Brazos bar.

The said cargo to be delivered and to be received alongside of the schooner's tackles. The cargo to be discharged at the wharf at either Indianola or Galveston with customary dispatch.

Bills of lading for said cargo to be signed hereafter by Captain Fowler.

In witness whereof the said parties have hereunto interchangeably set their hands and seals this 16th day of February, 1867.

RD. FOWLER.
CHAS. ANDRE.

Signed & delivered in the presence of—
H. M. FIELD.

And it is furthermore agreed between the two contracting parties that if the vessel should discharge at the port of Indianola, whereunto she has to proceed first and call for orders, none or a part of the cargo, and continue her voyage from that port with a part or the whole of said cargo to Galveston, then an extra compensation as freight-money of two hundred dollars in U. S. c'y has to be paid to Captain Fowler by the party of the second part.

50 RD. FOWLER.
CHAS. ANDRE.

[6 cts. int. rev. stamps. Cancelled.]

(Endorsed:) [4] Original charter-party of Capt. Fowler, of Am. sch. Island Belle, & Chas. Andre.

I, F. A. Beanter, of Brazos Santiago, on oath, do say that I am acquainted with H. M. Field, deputy collector of customs for the district of Brazos de Santiago; that the signature of the said H. M. Field to the annexed charter-party of the schooner Island Belle is the genuine signature of said H. M. Field; that I am familiar with the signature of said Field, having often seen him write the same. I further say that I was formerly deputy collector of United States customs for said district of said Brazos de Santiago, and that I know it to have been the practice in said custom-house of said district for the entry-clerk to sign for the collector all necessary papers used in entering goods for importation at said custom-house, agreeably to the laws of the United States.

51 FRANZ A. BENTER.

Subscribed & sworn to before me this 27 May, 1867.

T. J. LEAGUE,
U. S. Commissioner.

(Endorsed:) Paper B. Charter-party Island Belle. Affidavit of F. A. Benter.

Shipped in good order and well conditioned, by Chas. Andre, on board the schooner called the Island Belle, whereof Fowler is master, now lying in the port of Brazos Santiago, and bound for Indianola, to

say, three hundred barrels whiskey, eighty pair' ox-cart wheels, with eighty wooden axle-trees, and two boxes linchpins, three boxes cont'g one grave-yard monument, with iron railings & marble, all under deck, marked and numbered as in the margin, and are to be delivered in the like good order and condition at the port of Indianola, (the dangers of the navigation and fire only excepted,) unto Mr. Aug. Fromme,
52 for orders or assigns, he or they paying freight for the said as p'r charter-party, with primage and average accustomed.

In witness whereof the master or agent of the said schooner hath affirmed to 4 bills of lading, all of this tenor and date; one of which having been accomplished, the others to stand void.

RD. FOWLER.

BRAZOS SANTIAGO, *Feby.* 21*st*, 1867.

The foregoing bill of lading bears the following endorsement in the margin, thus: Forty-eight barrels whiskey not in good order, and one column of grave-yard monument broken; not accountable for leakage.

Across the face thus, (in red ink:) Insured under open policy of Messrs. Bertram & Miller, Bremen, and under special policy of the above firm, as per letter to Mr. L. F. Berge, dated Feb'y 15th, 1867.

(In black ink:) And two boxes linchpins, one ox-cart wheel in dispute, if found on board to be delivered.

(Endorsements on back:) Received on account of within one
53 hundred barrels whiskey, eighty p'rs cart-wheels, three boxes containing monument and railing.

AUG. FROMME.

Capt. Fowler has orders to proceed to Galveston with his vessel and report to Messrs. Focke & Wilkins as p'r charter.

INDIANOLA, *Feby.* 26, '67.

Recd. Galveston, March 17th, 1867, from G. Opperman, two hundred dollars in full.

RD. FOWLER.

Paper C.

Recd. M'ch 14, '67, from Capt. R. Fowler, two hundred bbls. whiskey, to be held for evidence of payment of internal-revenue tax.

R. B. STAPP, *Dy. C.*

Marks.	Numb.	Packages and contents.	Quantity.	Invoice cost.	Dutiable value in dollars.	Rate of duty. Specific.	Rate of duty. Ad val.	Explanatory remarks.	Amount of duty.
				Dolls. Cts.					Dolls. Cts.
B. G. H.	29	Twenty barrels whiskey	740 galls.			Free.		Exported per bark V'ga Garcia	
S. Y.	75	Seventy-five " "	2,795 "			"		" " brig Wanderer	
M. P.	50	Fifty " "	1,781 "			"		" " bark R. H. Knight	
(S)	50	Fifty " "	1,881 "			"		" " brig Scio	
(A)	100	One hundred " "	3,623 "			"		" " schooner Brazos	
R. & Co.									
(P)	5	Five " "	185 "		33,015 00	"		" " schooner Geo. Kelly	
(A) B.	100	One hundred pair of ox-cart wheels, with one hundred wooden axle-trees & 2 boxes linchpins belonging to said wheels.			5,000 00	"		Exported in the schooner Kederick	
R. & F.	3	Three boxes, comprising one grave-yard monument, of iron railings and marble stand.			125 00	"		" " brig Louisa	
					38,140 00				
M. P.		Fifty bbls. liquor						All the above-mentioned articles are of the growth, production, and manufacture of the United States, exported on board the above-named vessels from New York & New Orleans, upon which no drawback, bounty, or allowance has been allowed, and re-imported from Matamoras, Mexico, into the port of Brownsville, Tex., free. (Signed) CHAS. ANDRE.	
B. G. H.		Twenty bbls. whiskey							
S. Y.		Seventy-five bbls. whiskey							
(S)		Fifty bbls. whiskey							
(A)		One hundred bbls. whiskey							
R. & Co.									
(P)		Five bbls. whiskey							
(A) B.		One hundred wooden axles, wheels, &c							

BROWNSVILLE, *February* 12, 1867. The articles named in the bracket were cancelled the 12th day of July, A. D. 1867, by collector's certificate. (Signed) H. M. FIELD, *Special Deputy Collector.*

55 U. S. CUSTOM-HOUSE, COLLECTOR'S OFFICE,
DISTRICT BRAZOS DE SANTIAGO,
Port of Brownsville, Texas, November 20th, 1867.

This is to certify that the within is a true and correct copy on file in this office.

Given under my hand & seal of office the date and year above mentioned.

[SEAL.] JAS. HUSTON,
Actg. Spl. Dy. Collector.

I, Charles Andre, do solemnly and truly swear that the entry now delivered by me to the collector of the district of Brazos Santiago, Texas, contains a true and just account of all the goods, wares, and merchandise imported by or consigned to me in the ferry-boat , whereof is master, from Matamoras, Mex.; that the invoice which I now produce contains a faithful and just account of the actual cost of the said goods, wares, and merchandise, and also the actual market-value at the principal markets of the country from whence imported; that I do not know nor believe in the existence of any invoice or bill of
56 lading other than those now produced by me; that they are in the state in which I actually received them; and that the said invoice and the declaration thereon are in all respects true, and where made by the person by whom the same purports to have been made. And I do further solemnly and truly swear that I have not in the said entry or invoice concealed or suppressed anything whereby the United States may be defrauded of any part of the duty lawfully due on said goods, wares, and merchandise, and if at any time hereafter I discover any error in the said invoice, or in the account now produced of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district; so help me God.

(Signed) CHAS. ANDRE.

Sworn to this 12th day of Febry., 1867, before me.

(Signed) R. L. ROBERTSON,
Collector.

(Endorsements:) Numb. 12. Import-entry. February 12th, 1867.
57 Ferry-boat ; , master; from Matamoras, Mexico.
Charles Andre. Duty, $. Free. A. B. B. No. 1. Permit issued.

I, Charles Andre, do solemnly, sincerely, and truly swear that the articles enumerated in the within entry are, to the best of my knowledge and belief, of truly and bona fide of the growth and manufacture and production of the United States; that they were truly exported; and, further, that no drawback, bounty, or allowance has been paid or admitted thereon or any part thereof; so help me God.

(Sign'd) CHAS. ANDRE.

Sworn to this 12th day of February, 1867, before me.

(Signed) R. L. ROBERTSON,
Collector.

Paper D.

58 (Copy.)

Bond to produce certificate.

Form 82.] [No. 1.

Know all men by these presents that we, Charles Andre Manuel de Liano, are held and firmly bound unto the United States of America in the sum of seventy-six thousand two hundred and eighty dollars, to be paid to the said United States, for which payment well and truly to be made we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this twelrth day of February, in the 91st year of the Independence of the United States, and in the year of our Lord one thousand eight hundred and sixty-seven.

Whereas Charles Andre has this day made entry at the custom-house of the port of Brownsville of the following articles, viz:

B. G. H. Twenty bbls. whiskey.
S. J. Seventy-five bbls. do.
M. P. Fifty bbls. do.
◇S◇ Fifty bbls. do.
△A△ One hundred bbls. do.
K & Co.
[P] Five bbls. do.
[A] B One hundred ox-cart wheels.

59 One hundred wooden axle-trees, and two boxes linchpins belonging to said wheels.

R × F. One grave-yard monument of iron railings and marble stand.

The below-mentioned articles were cancelled this 12th day of July, A. D. 1867, by collector's certificate:

B. G. H., twenty bbls. whiskey; S. J., twenty-five bbls. whiskey ◇S◇. fifty bbls.w hiskey ◇P◇; five bbls. whiskey, △A△ R. & Co.; one hundred bbls whiskey, ◇A◇B; one hundred wooden axle', wheels, &c.

M. P., fifty bbls. liquor.

(Signed) H. M. FIELD,
Spl. Dy. Collector.

as per entry by him subscribed, and hath likewise sworn before the collector of the said port that the said articles are of the growth, product, or manufacture of the United States, and that they were exported from the district of New York and New Orleans, in various vessels whereof was master on various dates, day of , 186 . And whereas the duties of the aforesaid articles, if of foreign growth or importation, would amount to the aforesaid sum of seventy-six thousand two hundred and eighty dollars:

The condition therefore of this obligation is such that if the above
60 bounden Charles Andre do' within six months from the date

hereof produce, or cause to be produced, to the collector of the district of Brownsville, a certificate under the hand and seal of the collector of customs of the aforesaid port of New York, of the said articles having been actually exported from thence, as herein set forth, subject to no drawback, bounty, or allowance, then this obligation to be void and of no effect; otherwise it shall be and remain in full force and virtue.

(Signed) CHAS. ANDRE. [SEAL.]
M. DE LIANO. [SEAL.]

Sealed and delivered in the presence of:
(Signed) GEO. LAMY,
Bond Clerk.

(Copy.)

[5-cent I. R. stamp, 5, 23, 67. A. C. W.]

CUSTOM-HOUSE, NEW YORK,
Collector's Office, May 23d, 1867.

This is to certify that it appears upon the records of this office that there were cleared at this port in the bark Virginia Garcia, whereof Diaz was master, for Matamoras, on the first day of October,
61 1864, the following merchandise, by Messrs. M. Echeverria & Co.:

B. G. H., twenty barrels whiskey, $678. W. M.
No record of drawbacks in drawback bureau. E. B. R.
On manifest. W. M., J. A. W.

[SEAL OF THE DISTRICT OF NEW YORK.]
(Sg.) GEO. EMLEE,
Depy. Collector.

(Copy.)

[5-cent I. R. stamp, 5, 23, 67. A. C. W.]

CUSTOM-HOUSE, NEW YORK,
Collector's Office, May 23rd, 1867.

This is to certify that it appears upon the records of this office that there were cleared at this port in the British brig Wanderer, whereof Anderson was master, for Matamoras, on the second day of February, 1865, the following articles of merchandise, by Messrs. O. K. King & Co.:

62 S. Y., seventy-five barrels liquor, 3,208 gallons, value $3,100. W. M.

No entry made in the drawback bureau. E. B. R.
On manifest. W. M., J. A. W.

[SEAL OF THE DIST. OF NEW YORK.]
(Sg'd) GEO. EMLEE,
Depy. Collector.

(Copy.)

[5-cent I. R. stamp, 5, 23, 67. A. C. W.]

CUSTOM-HOUSE, NEW YORK,
Collector's Office, May 23rd, 1867.

This is to certify that it appears upon the records of this office that

there were cleared at this port in the bark R. H. Knight, whereof J. A. Leighton was master, for Matamoras, on the tenth day of February, 1865, the following articles of merchandise, by Messrs. O. K. King & Co.:
M. P., fifty barrels liquor, 2,043 gallons, value $3,064. W. M.

63 No entry made in the drawback bureau. E. B. R.
On manifest. W. M., J. A. W.
]SEAL OF THE DISTRICT OF NEW YORK.]
(Signed) GEO. EMLEE,
Depy. Collector.

Copy.

[5 cent I. R. stamp, 5, 23, 67. A. C. W.]

CUSTOM-HOUSE NEW YORK,
Collector's Office, May 23d, 1867.

This is to certify that it appears upon the records of this office that there were cleared at this port in the British brig Scio, whereof Bunn was master, for Matamoras, on the fourteenth day of January, 1865, the following articles of merchandise, by Messrs. James H. Woodhouse:

◇S◇ Fifty barrels whiskey, 2,091 gallons, value, $2,710. W. M.
64 No entry made in the drawback bureau. E. B. R.
On manifest. W. M., J. A. W.
[SEAL OF THE DIST. OF NEW YORK.]
(Signed) GEO. EMLEE,
Depy. Collector.

CUSTOM-HOUSE, NEW YORK,
Collector's Office, Feb. 13, 1867.

This is to certify that it appears upon the records of this office that there were cleared at this port in the bark Mary Scholfield, whereof McDonald was master, for Matamoras, on the eleventh day of March, 1865, the following articles of merchandise, by Messrs. J. C. Jewatt & Co.:
S◇A◇ One hundred barrels whiskey, 4,202½ gallons, value, $12,077$\frac{12}{100}$. W. M.

(Across the face:) Re-imported Feby. 12, 1867.
No entry made for drawback in the drawback bureau. E. B. R., J. A. W.

[SEAL DIST. OF N. Y.] GEO. EMLEE,
Depy. Collector.

65 STATE OF NEW YORK,
City of New York:

I, Christian F. Schramme, of the city of New York, and one of the firm trading under the names of J. C. Jewett & Co., do swear that the within-mentioned whiskey were actually shipped by us on board the said vessel during the month of March, 1865, and that no drawback, allowance, or bounty has been paid or admitted.
(Sigd) C. F. SCHRAMMER.

Sworn to before me February 13, 1867.
(Signed) SAMUEL GODWIN,
[SEAL NOTARY PUBLIC.] *Notary Public.*

THE STATE OF TEXAS,
County of Cameron:

Charles Andre being duly sworn by me, on his oath declares that the one hundred barrels of whiskey marked S ⟨A⟩ and named in a certificate dated Custom-house, New York, collector's office, Feby. 13th, 1867, and signed by Geo. Emlee, collector of said port of New York, were entered by him in February, 1867, at the custom-house, Brownsville, dist.
66 of Brazos, and that through *in* inadvertence the name of the vessel exporting said whiskey was stated to be schooner Brazos, and that in place of said vessel the statement should have been that said whiskey was exported from New York for Matamoras, Mexico, in the bark Mary Scholfield, as set forth in said collector's certificate.

(Signed) CHARLES ANDRE.

Sworn to and subscribed before me this the thirteenth day of July, A. D. 1867.

Witness my hand & seal of office the day and date above written.

(Signed) S. E. STARCT,
Clk. Co. Court, Cameron Co., Texas.

[SEAL CAMERON COUNTY COURT.]

DISTRICT OF NEW YORK,
Port of New Orleans:

We hereby certify that there was laden at this port on or about
67 the 4th day of February, 1865, on board the schr. Joe Kelley, for exportation to Matamoras the following merchandise, viz:

Marks.	Number of packages.	Contents and quantity.
W ⟨W⟩	Five bbls...	Whiskey.
⟨P⟩	Five bbls ..	Whiskey re-imported, Feby. 12, 1867.
[5-cent I. R. stamp.]		
		No drawback allowed.—G. E. B.

and it appears from proof filed in this custom-house, that said merchandise is the product or manufacture of the United States of America.

Given under our hand and seal this 20th day of June, 1866.

(Sgd.) W. G. BROWN,
Ac. Depy. Collector.

(Sgd.) JONA C. WHITE,
D. Naval Officer.

J. T.

Foregoing certificate endorsed on back, "Paper D."

And the claimant here rested his case.

68 The district attorney of the United States then offered in evidence sworn examined copies of the original entry of the merchandise in controversy by the said Charles Andre on the 12th day of

February, 1867, at the Brownsville custom-house, together with sworn and examined copies of the bond given by Andre for seventy-six thousand two hundred and eighty dollars to produce within six months after the said 12th day of February, 1867, to the collector at Brownsville, the certificate of the collector of the port of New York, of the export of said goods subject to no bounty, allowance, or drawback; as also sworn and examined copies of the certificates of the collectors of the ports of New York and New Orleans, upon which said bond was cancelled, all which sworn and examined copies are hereto annexed and made part of this statement of facts, marked "D."

And the district attorney also proved that the originals of said entry, bond, and certificates were on file in the custom-house at Brownsville, more than one hundred miles from Galveston, the place of trial.

69 To the introduction of all which sworn and examined copies of entry, bond, and cancellation certificates the claimant objected at the time, but his objection was overruled and said copies received in evidence, and said claimant excepted.

It was then proven by the testimony of Milton Stapp, collector of internal revenue at Galveston, that he seized the goods in controversy and *and* examined each separate barrel; that many of them appeared to be old molasses-barrels; many of them had the inspection-marks of revenue inspectors at New Orleans and at Cincinnati, Ohio. That the inspection-marks, if ever there had been any on some of the barrels, had been covered with dirt and so obscured as to be illegible; but that most of the barrels contained the inspection-marks, "manufactured prior to 1st Sept., 1866."

Martin K. Canfield, U. S. deputy marshal, who executed the process of the court, testified substantially the same facts.*

[*When the whiskey was taken out of warehouse and delivered claimant by order of court, he affixed a new brand on the head of each barrel, and to do which he had to wash the heads and found that all but fifteen or twenty barrels were branded, "tax paid."

Agreed to.

D. J. BALDWIN,
U. S. Dist. Atto.
TUCKER, *for Andre.*]

Henry M. Field, deputy collector of customs at Brownsville, testified that he superintended the embarcation of the said liquor and put the custom-house brand on every barrel, and saw and examined every

70 barrel, and in answer to questions specially put to him by the district attorney and by the court, said he felt very certain that every barrel had upon it "manufactured prior to 1st Sept., 1866."

And thereupon, after argument of counsel and mature consideration by the court, a decree of forfeiture was entered against said liquor and the same condemned accordingly, from which decree the claimant gave notice of appeal.

To perpetuate the memory of all which this statement of facts is signed and sealed by the judge and ordered to form part of the records in this cause.

T. H. DUVAL. [SEAL.]
Judge U. S. Dist. Ct. Est. Dist. Tex.

(Endorsements:) 25. C. L. 728. The United States vs. 199 Bbls. Whiskey. Statement of facts. Filed July 24th, 1869. Levi Jones, clk. Filed April 30th, 1873. C. Dart, clerk.

71 *Motion of C. Andre vs. M. Stapp & A. K. Lee.—(Filed Decr. 23d, 1867.)*

In U. S. district court E. dist. of Texas.

UNITED STATES
vs.
199 BARRELS OF WHISKEY. } No. 25.

And now comes Charles Andre, claimant, and informs the court that the order of your honor in this case on the 24th June, A. D. 1867, has not been fully complied with; that the marshal has only received and delivered to said claimant 196 barrels of said whiskey; that three barrels of said whiskey have not been delivered in accordance therewith. Said claimant respectfully refers to said order and return thereon to the rect. for said whiskey by the deputy of Milton Stapp, esq., collector of internal revenue, to sustain this motion, and moves the court that Milton Stapp, esq., and Archibald K. Lee, the persons in charge of said whiskey on the said 24th day of June, be cited to appear before your honor and show cause, if any they or either of them have, why
72 they should not be dealt with as for contempt, or for such other order as to your honor seem best.

CHAS. ANDRE.

(Endorsed:) Ad. 25. C. L. 728. United States v. 199 Barrels of Whiskey. Motion of C. Andre vs. M. Stapp & A. K. Lee. Filed Decr. 23, '67. Levi Jones, clerk. Filed April 30, '73. C. Dart, clerk.

Order vs. M. Stapp & A. K. Lee.

(From the minutes Decr. term, Decr. 23d, 1867.)

THE UNITED STATES
v.
199 BARRELS OF WHISKEY. } 25.

On this day came on to be heard the motion of the claimant, Charles Andre, filed in this cause; the same being considered, it is ordered that Milton Stapp, esqr., and Archibald K. Lee, the person' having
73 charge of the whiskey libelled in this cause, on the 24th day of June last, be cited to appear before the honorable the district court of the United States for the eastern district of Texas, now in session at the court-house thereof in the city of Galveston, on Tuesday the 24th day of December, A. D. 1867, at 10 o'clock a. m., then and there to show cause, if any they have, why they should not be dealt with as for contempt in not obeying and complying with the order of said court made in said cause on said 24th June, 1867.

Citation.—(Issued Decr. 23d, 1867.)

United States district court.

The President of the United States of America to the marshal of the eastern district of Texas, greeting:

You are hereby commanded to summon Milton Stapp and Archibald K. Lee, if to be found in your district, to be and appear before the hon-

orable district court of the United States to be holden for the
74 fifth judicial circuit, at the court-rooms thereof in the city of Galveston, on Tuesday the 24th day of Decr., 1867, at 10 o'clock a. m., then and there to show cause, if any they have, why they should not be dealt with as for contempt in failing to comply with the order of this court made in the case of the United States vs. 199 Barrels of Whiskey, on the 24th day of June last.

Herein fail not, and due return of this writ make.

Witness the honorable John C. Watrous, judge of the said court, and the seal thereof, at Galveston, this 23d day of Decr., in the year of our Lord eighteen hundred and sixty-seven, and of American Independence the ninety-second year.

[SEAL.] LEVI JONES,
Clerk Eastern District Texas, at Galveston.

Marshal's return.

Recd. Decr. 23d, 1867, and on the same day, month, and year I executed the within writ by reading it to M. Stapp & A. K. Lee.

JAS. J. BYRNE, *U. S. M.*,
By M. K. CANFIELD, *Dept.*

75 Foregoing citation endorsed: No 25. C. L. 728. The United States vs. 199 Barrels of Whiskey. Citation. Milton Stapp & A. K. Lee. Filed Decr. 24th, 1867. Levi Jones, clerk. Issued 23d day of Decr., A. D. 1867. Levi Jones, clerk U. S. court, E. D. T., G. Filed April 30, '73. C. Dart, clerk.

Answer of A. K. Lee to claimant's motion.—(Filed Jany. 9, 1868.)

UNITED STATES
v.
199 BBLS. WHISKEY. } No. 25.

Now comes A. K. Lee, by leave of the court in the above cause, and says that he has not been guilty of any contempt of this court or its order in failing to deliver to the claimant therein 199 barrels of whiskey as required by said order, but says that said order was in fact
76 obeyed by him so far as it was in his power to obey the same.

He admits that the whiskey seized in said cause was stored in his warehouse in the city of Galveston, but says that the discrepancy between the quantity said to have been seized, and that delivered by him to the marshal, to wit, three barrels, is owing to no fault, negligence, or wrong of his, but is an error or mistake for which he is in no wise accountable.

That said whiskey, consisting of 196 barrels, was delivered by him to the marshal in obedience to the order of this court, and that upon the day following the claimant pointed out to the depy. marshal 3 barrels of liquor in affiant's warehouse & claimed the same; but said 3 barrels were not of the lot of whiskey seized in said cause, but were in fact 3 barrels of brandy marked "S. & B.," and the property of Stoddard & Burk, & stored by them.

And of the above facts he prays the judgment of the court, and that he be hence dismissed with his costs.

A. K. LEE.

Sworn to & subsc'd before me Jan'y 9, 1868.

LEVI JONES, *Clk.*

77 Foregoing answer endorsed: No. 25. C. L. 728. United States v. 199 Barrels Whiskey. Answer of A. K. Lee to claimants' motion. Filed Jan'y 9th, 1868. Levi Jones, clk. Filed April 30, 1873. C. Dart, clk.

Answer of Milton Stapp to claimant's motion.—Filed Jan'y 9th, 1868.

UNITED STATES
v.
199 BBLS. WHISKEY. } No. 25.

Now comes Milton Stapp in the above cause, and by leave of the court says, that he has been guilty of no contempt of court in said cause, but has obeyed the order of this court therein so far as it has been in his power so to do; and he annexes hereto and makes part of this showing, copy of the order of this court and his own order as collector, issued in obedience thereto, and that if said order has not been fully and
78 promptly obeyed, it has not been owing to any fault or negligence on his part. All of which he is ready to verify, and he prays to be hence dismissed with his costs.

MILTON STAPP.

Subscribed and sworn to before me this 9th Jan'y, 1868.

L. JONES, *Clk.*

(Endorsed:) No. 25. C. L. 728. United States v. 199 Bbls. Whiskey. Answer of Milton Stapp to claimants' motion. Filed Jan'y 9, 1868. Levi Jones, clk. Filed April 30, 1873. C. Dart, clerk.

Order as to Stapp & Lee.

From minutes December term, 1867, Feb'y 6th, 1868.

THE UNITED STATES
v.
199 BBLS. OF WHISKEY. } 25.

79 This day came on to be heard the motion as for contempt against Milton Stapp and A. Kerr Lee, for not obeying the orders of this court requiring them to surrender to the marshal the whiskey libelled in this cause, which motion having been duly considered by the court, and the evidence produced not being sufficient to sustain the same, it is ordered that the said motion be discharged.

Whereupon, on motion of the attorney for the claimant herein, it is ordered that A. Kerr Lee, the keeper of the bonded warehouse wherein said whiskey was stowed, return to the marshal of the eastern district of Texas the three barrels of whiskey libelled in this cause, and received by him, or, upon his failure so to do, to show cause at the present term of this court the reason for such failure.

Writ to serve copy on Lee.—(Issued Feb'y 8, 1868.)

UNITED STATES OF AMERICA,
Eastern District of Texas:

The President of the United States to the marshal of the eastern district of Texas, greeting:

80 You are hereby commanded to serve A. Kerr Lee with the accompanying certified copy of an order made and entered at the

Decr. term, 1867, of the U. S. dist. court, to wit, on the 6th day of Feby., 1868, in suit No. 25, entitled United States vs. 199 Barrels of Whiskey, and that in pursuance of said order you demand and receive the three barrels of whiskey mentioned in said order, giving him a receipt therefor.

Witness the Hon. Jno. C. Watrous, judge of said court, and the seal thereof, at Galveston, this Feby. 8, 1868.

[SEAL.] LEVI JONES, *Clerk.*

Marshal's return.

Recd. February 8th, 1868, and on the same day I exhibited this writ and read the same to A. Kerr Lee, and demanded of him three barrels of whiskey in pursuance with the order of the court, and he refused and failed to deliver the same.

JAS. J. BYRNE, *U. S. M.*,
By M. K. CANFIELD, *Dep'ty.*

81 (Foregoing writ endorsed:) A. D. 25. C. L. 728. The United States v. 199 Bbls. Whiskey. Writ. Filed Feby. 8, 1868. Levi Jones, clk. Filed April 30, '73. C. Dart, clerk.

Suggestion of Milton Stapp.—(Filed June 25th, 1867.)

In the U. S. district court for eastern district of Texas, at May term, A. D. 1867.

THE UNITED STATES
vs.
ONE HUNDRED & NINETY-NINE BARRELS OF Whiskey, Charles Andre, claimant. } No. 25. Libel of information.

And now comes Milton Stapp, collector of int. revenue for the 1st collection district of Texas, and suggests and shows to the court here that there is due for warehouse charges upon said whiskey the sum of four hundred and fifty-nine dollars and fifty cents, a bill of the items whereof is hereto annexed and made part hereof. And he prays
82 that said charges be allowed against said whiskey, and that the same be paid, &c.

D. J. BALDWIN,
U. S. Dist. Atto.

GALVESTON, *June* 14, 1867.

199 *barrels whiskey to U. S. bonded warehouse, Dr.*

March 14.	To cash paid for drayage	$33 50
	" " " " labor	8 00
June 14.	" 3 months' storage at 50 cts. per bbl. per month	298 50
June 19.	To cash paid labor	12 50
20.	" " " "	6 50
	" Storage for month ending July 14	99 50
		$459 50
	Less 3 bbls. chgd. for not found	6 93
	Recd. payment.	
	Amt. due	$452 67

[Two-cent int. rev. stamp cancelled.]

(Endorsements:) 25. C. L. 728. The United States vs. 199 Barrels of Whiskey. Warehouse charges. Suggestions of Milton Stapp. Filed 25th June, 1867. L. Jones, clerk. Filed April 30, 1873. C. Dart, clerk.

83 *Claim of Milton Stapp.*—(*Filed July 18th, 1868.*)

THE STATE OF TEXAS, *Galveston County:*

The honorable judge of the United district court of the eastern district of the State of Texas:

The undersigned, being collector of internal revenue of the first collection district of the State of Texas, about the day of March, 1867, seized upon one hundred and ninety-nine bbls. of whiskey held by and in possession of one Andre, and deposited the same in the United States bonded warehouse No. 1, kept by A. K. Lee, and which was afterwards turned over to the marshal of said court. That said A. K. Lee had charges against said liquor for the storage thereof of the sum of four hundred and fifty-eight dollars and fifty cents, ($458.50,) which said sum of $458.50 I paid to said A. K. Lee on the liquor being turned over to the marshal of said court. This 199 bbls. of liquor is claimed as being in fraud of the U. S. inter. revenue and is now in your honor's court on trial. I now claim this $458.50 as costs in the case be-
84 fore your honor, and ask that may be taxed as such and directed to be paid to me on the decision of the case.

July 14, 1868.

MILTON STAPP.

Sworn to before me July 18, '68.

LEVI JONES, *Clerk.*

(Endorsements:) 25. C. L. 728. The United States vs. 199 Barrels Whiskey. Claim of Milton Stapp. Filed July 18, 1868. Levi Jones, clerk. Filed April 30, '73. C. Dart, clk.

Decree of forfeiture in dist. court.

(From minutes May term, July 21st, 1868.)

Hon. John C. Watrous, judge presiding.

THE UNITED STATES
v.
199 BARRELS OF WHISKEY. } 25.

This cause came on to be heard at this term, the United States of America appearing by the district attorney, and the claimant of the property seized and libelled in this cause, Charles Andre, by Messrs. Tucker & League, his proctors, and thereupon, the issues having
85 been joined, a jury was waived and the cause submitted to the court; whereupon the court having heard the evidence and the argument of counsel, and being fully advised, it is considered, adjudged, and decreed by the court that a verdict be entered herein in favor of said libellant, and the libel herein filed sustained. It is further decreed by the court, the one hundred and ninety-nine barrels of whiskey libelled herein be and the same are hereby declared condemned and forfeited to the United States of America, for the reasons in said libel set forth.

Notice of appeal from dist. to circt. court.

(From the minutes May term, July 22d, 1868.)

THE UNITED STATES } 25.
v.
199 BBLS. WHISKEY. }

Charles Andre, claimant in the above-entitled cause, this day appeared in open court by his proctors, Messrs. Tucker & League, and excepts to all and singular the decree rendered herein on yesterday, and thereupon gave notice of appeal.

86 *Order allowing appeal from dist. to circ't court.*

(From the minutes May term, July 24, 1868.)

THE UNITED STATES } 25.
v.
199 BARRELS OF WHISKEY. }

On motion of Messrs. Tucker & League, proctors for the claimant in this cause, and for good cause shown, it is ordered that the appeal be allowed, and that said claimant have until the first day of the next term of this court in which to prepare exceptions to the decree and ruling herein, and prepare and file a statement of facts, and all matters and things connected with the perfection of said appeal, including the appeal-bond, to be continued until the next term without prejudice.

Petition for writ of error from dist. to circ't court.—Filed July 24, 1868.

UNITED STATES }
v.
199 BBLS. WHISKEY. }

To the honorable the judges of the circuit court of the United
87 States of the fifth circuit for the eastern district of Texas:

The petition of Charles Andre, merchant, a resident of the city of Matamoras, State of Taumalipas, in the republic of Mexico, respectfully sheweth, that at the term of the United States district court for said district, held at Galveston, which commenced on the first Monday of May, 1868, there was a cause depending therein on the exchequer side of the admiralty docket of said court, being a case of municipal seizure in favor of the United States against One Hundred and Ninety-nine Barrels of whiskey, wherein your petitioner was a party, as claimant and owner of said whiskey as appears by the records; said case being numbered twenty-five on the docket of said court; that on the twenty-first day of July, 1868, being a day of said term of said court, there was rendered final judgment in said cause, wherein and whereby said whiskey was condemned and forfeited to the use of said United States and of the informer mentioned in the libel of information filed in this case, upon which this petitioner, as claimant, gave notice of appeal therefrom
88 to the honorable the circuit court aforesaid; and said petitioner says that in said judgment and the proceedings in said cause there was manifest error, which was greatly to the damage of your petitioner; wherefore petitioner prays for a writ of error to remove said cause to

the honorable the circuit court of the fifth judicial circuit in and for the eastern district of Texas, next to be held at Galveston in and for said district, for revision and correction, and that said United States may be duly cited to be and appear before said court at said time and place.

TUCKER AND LEAGUE,
For Petitioner.

(Endorsed:) C. L. 728. Charles Andre, claimant of 199 bbls. whiskey, plaintiff in error, v. The United States. Petition for writ of error. Filed July 24, 1868. Levi Jones, clerk. Filed April 30, '73. C. Dart, clk.

89 *Bond for costs on writ of error.—Filed July* 24, 1868.

Circuit court of the United States for the eastern district of Texas.

UNITED STATES
ads.
199 BBLS. WHISKEY, CHARLES ANDRE, CLAIMANT.

Know all men by these presents that we, Charles Andre, as principal, and John Berlocher and C. H. Ruff, as sureties, are held and firmly bound unto the United States of America, in the sum of five hundred dollars, to be paid to the said United States; to which payment well and truly to be made we bind ourselves and each of us jointly and severally, our and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated 24th day of July, A. D. 1868.

Whereas the above bound Charles Andre hath prosecuted a writ of error to the circuit court of the United States (fifth circuit) for the eastern district of Texas, to reverse the judgment rendered in the above-entitled case, by the honorable the district court for the eastern district of Texas, (at Galveston:)

Now, therefore, the condition of this obligation is such that if
90 the above-named Charles Andre shall prosecute his writ of error to effect and answer all cost, if he shall fail to make good his claim, then this obligation to be void; otherwise the same shall be and remain in full force and virtue.

CHAS. ANDRE.
JOHN BERLOCHER.
C. H. RUFF.

In the presence of—
C. DART.
R. O. JOHNSON.

Approved:

JOHN C. WATROUS,
U. S. Judge.

(Endorsed:) C. L. 728. Charles Andre, claimant of 199 bbls. whiskey, plaintiff in error, v. The United States. Bond for costs on appeal. Filed July 24, 1868. Levi Jones, clerk. Filed April 30th, 1873. C. Dart, clerk.

91 *Final judg't in cir't ct.*

(From minutes, Dec'r term, 1872, Jan'y 31st, 1873.)

Hon. W. B. Woods, judge presiding.

In the circuit court of the United States for the eastern district of Texas.

CHARLES ANDRE, CLAIMANT OF 199 BARRELS of whiskey, *v.* THE UNITED STATES. } No. 417 on appeal.

(This decree set aside.)

This cause came on to be heard at this term, the said claimant, Charles Andre, appearing by his proctors, Phillip C. Tucker and J. Warren Bell, and the United States by the district attorney, D. J. Baldwin; and thereupon, and upon consideration of the pleadings and proofs in said cause, it is considered, adjudged, and decreed by the court, that the allegations of the libel herein filed be sustained, and the property libelled be, and the same is hereby, declared condemned and forfeited to the United States of America, for the reasons and causes in said libel set forth. And it appearing to the court that the property herein was delivered to said claimant upon a stipulation duly executed by said claimant, and by G. Oppermann and Sam. Maas, sureties, dated June 21st,

92 1867, and filed in this cause, at its appraised value, the same being the sum of six thousand six hundred and thirty-six dollars and fifty cents, ($6,636.50;) wherefore it is further considered and adjudged by the court that said claimant, Charles Andre, shall, within twenty days from this date, pay into the registry of this court, and unto the clerk thereof, the said appraised value of said 199 barrels of whiskey, to wit, the sum of $6,636.50, with interest thereon at the rate of six per cent. per annum from said 21st day of June, 1867, to this date, two thousand two hundred and thirty-four dollars and twenty-seven cents, ($2,234.27,) amounting in the aggregate to the sum of eight thousand eight hundred and seventy dollars and seventy-seven cents, ($8,870.77,) also all costs about this suit sustained to be taxed; and in default thereof, then that execution issue therefor against said claim' and his said sureties, G. Oppermann and Sam. Maas.

93 *Order overruling motion for rehearing.*

From the minutes Dec'r term, 1872, Jan'y 31st, 1873.

CHARLES ANDRE, CLAIMANT, *v.* THE UNITED STATES. } 417.

The motion of the claimant herein for a new trial, having been heard and considered by the court, is overruled.

Order setting aside judgment in circ't court.

From minutes Dec'r term, 1872, Feb'y 26th, 1873.

CHARLES ANDRE, CLAIMANT,
v.
THE UNITED STATES. } 417 & 418.

The judgments heretofore entered at this term in these causes are hereby vacated and set aside.

Motion for judg't on bond.—Filed Feb'ry 26, 1873.

U. S. district court, eastern dist. Texas, Galveston, December term, 1872.

THE UNITED STATES
vs.
ONE HUNDRED & NINETY-NINE BBLS. WHISKEY. } No. 25.

94 And now comes D. J. Baldwin, U. S. district atto., and suggests and shows to the court here that on the 21st day of July, 1868, a decree of forfeiture was entered herein against the property in the libel mentioned, but that no judgment was entered against Charles Andre, the claimant of the said property, and his sureties, G. Oppermann and Samuel Maas, *his sureties;* that said property was appraised by order of this court, and delivered to claimant upon his bond, with the above-named sureties, before the trial and decree above mentioned, as appears of record in this cause, and more than twenty days have elapsed since the rendition of said decree of forfeiture.

Wherefore, the said attorney moves the court now here to render a judgment against the Charles Andre, and said Oppermann and Maas, upon the bond executed by them in this cause, with interest from the date of said bond, as the same appears of record, and for such other and further judgment, order, proceeding, and decree in the premises as to law and very right shall pertain, &c., and said bond is made part
95 of this motion, as if fully incorporated and embodied herein.

D. J. BALDWIN,
U. S. Dist. Atto.

(Endorsements:) 25, C. L. 728. The United States vs. 199 Bbls. Whiskey. Mo. for judg't on bond. Filed Feb'y 26, '73. Geo. C. Rives, clerk. Filed April 30, '73. C. Dart, clk.

Final judg't in dist. court.

From minutes December term, 1872, Feb'ry 26, 1873.

U. S. district court, eastern dist. of Texas.

Hon. Amos Morrill, judge, presiding.

THE UNITED STATES
v.
199 BARRELS WHISKEY. } 25.

An interlocutory judgment having been entered in this case, on the

21st day of July, 1868, and further proceedings having been suspended by writ of error, and the said writ of error having been dismissed, it is therefore now considered, adjudged, and decreed, as follows:

96 It appearing that the property in controversy was delivered to Charles Andre, claimant thereof, upon a stipulation duly executed by said claimant, and G. Oppermann and Sam. Maas, as sureties, dated 21st June, 1868, and the appraised value of the property being the sum of six thousand six hundred and thirty-six $\frac{50}{100}$ dollars, therefore it is considered and decreed by the court, that the allegations of the libel herein filed be sustained, and the property libelled be, and the same is hereby, declared forfeited and condemned to the United States of America, for the reasons and causes in said libel set forth. And it appearing to the court that the property herein was delivered to said claimant upon a stipulation duly executed by said claimant, and by G. Opperman and Sam. Maas, sureties, dated June 21st, 1867, and filed in this cause, at its appraised value, the same being the sum of six thousand six hundred and thirty-six dollars and fifty cents, ($6,636.50:)

97 Wherefore it is further considered and adjudged by the court that said claimant, Charles Andre, shall, within twenty days from this date, pay into the registry of this court, and unto the clerk thereof, the said appraised value of said 199 barrels of whiskey, to wit, the said sum of $6,636.50, with interest thereon at the rate of six per cent. per annum, from said 21st day of June, 1867, to this date, two thousand two hundred and sixty-one dollars and ninety-four cents, ($2,261.94,) amounting in the aggregate to the sum of eight thousand eight hundred and ninety-eight dollars and fifty-four cents; also all costs about this suit sustained to be taxed, and in default thereof then that execution issue therefor against said claimant and his said sureties, G. Oppermann and Sam Maas.

Order allowing appeal from dist. to circ't court.

From the minutes Dec'r term, 1872, Feb'y 26th, 1873.

THE UNITED STATES } No. 25.
v.
199 BARRELS WHISKEY. }

On motion of the claimant's counsel, it is ordered that the claimant be allowed till the 10th day of April, A. D. 1873, to perfect his appeal.

98 (From minutes Dec'r term, 1872, Feb'y 26th, 1873.)

U. S. district court east'n dist. Texas.

CHARLES ANDRE, CLAIMANT 100 BARRELS whiskey,
v.
THE UNITED STATES.

Upon consideration of the petition of Milton Stapp, late collector of internal revenue for the first district of Texas, it is ordered that there be taxed as a part of the costs of this cause, and to be paid as provided in the decree this day entered in this cause, the sum of four hundred and fifty-eight $\frac{50}{100}$ dollars, being the bill for storage of said property in the bonded warehouse of A. K. Lee while the said property was in the cus

tody of the marshal under the orders of this court; and it appearing to the court that there are conflicting claims to said fund, which will require the future adjudication of this court, it is ordered that the same be paid into the registry of this court, there to remain until the further order of the court in the premises.

99 *Agreement to enlarge time to perfect appeal.—Filed April 2d*, 1873.

In the U. S. circuit court, Galveston, April, 1873.

THE UNITED STATES
vs.
199 BBLS. WHISKEY.

and

THE U. S.
vs.
100 BBLS. WHISKEY.

It is agreed that the time for perfecting the appeals in these cases may be enlarged to the 25th April, 1873.

D. J. BALDWIN
U. S. Dist. Atto.
J. WARREN BELL,
For Claimant and Defdts.
Per J. Z. H. S.

Ordered accordingly.

AMOS MORRILL, *Judge.*

(Endorsements:) A. D., 25 & 26. C. L., 728. The United States vs. 199 Bbls. Whiskey, & vs. 100 Bbls. Whiskey. Agreement to en-
100 large time to perfect appeal. Filed 2d April, 1873. Geo. C. Rives, clerk. Filed April 30, '73. C. Dart, clk.

Appeal from dist. to cir't court.—Filed April 30, 1873.

THE UNITED STATES
v.
199 BARRELS WHISKEY, CHARLES ANDRÉ claimant. } No. 25. Appeal to circuit court.

To the hon. the circuit court of the United States for the eastern district of Texas, at Galveston:

The appeal of Charles Andre, Gustave Oppermann, and Sam. Maas respectfully sheweth that on or about the day of , A. D. 1867, a certain libel of information was filed in the district court of the United States for the eastern district of Texas, at Galveston, by the Hon. D. J. Baldwin, U. S. attorney for said district, on behalf of the United States against one hundred and ninety-nine barrels of
101 whiskey, of which the appellant Charles Andre was and is the claimant, praying that the same be condemned and forfeited to the United States for the reasons set forth in said libel of information, and thereupon the said Charles Andre answered fully thereto, and asked that said libel be dismissed, as by reference to said libel and said answer may more fully appear.

That said cause came on to be heard before the Hon. Amos Morrill, judge of said district court, on or about the day of , A. D. 1873, upon the depositions and proofs taken in said cause; and the said judge having advised thereon did, on the 26th day of February, A. D. 1873, make his decree in said cause, whereby it was, among other things, decreed that said 199 barrels of whiskey be condemned and forfeited to the United States, and Charles Andre, Gustave Oppermann, and Sam. Maas pay into the registry of said district court the sum of $8,870.77 and costs, & in default thereof, that execution issue against them in favor of said United States for the same, as by reference to said decree may more fully appear; and appellants are advised
102 and insist that the said decree is erroneous, inasmuch as said 199 barrels of whiskey had been legally imported into the United States through the custom-house at Brownsville, Texas, and was not in anywise subject to forfeiture; and the same had not been delivered to appellants, or either of them, and that said district court had not jurisdiction in the premises. And appellants, for these and other reasons, appeal from the whole of the said decree in favor of the United States to the next circuit court to be held in the said district; and in the said appeal they intend to make new allegations in the circuit court, and introduce the same and new and further proofs; and they pray that the said decree, and every part thereof, may be reversed, with costs, or such other decree thereupon made as to the said circuit court shall seem just, and that the record and proceedings may be returned to the said circuit court and appellees be condemned to pay costs and damages to appellants, & that proceedings therein be superseded, & for general relief; & will ever pray, &c.

BURROUGHS & ALLEN,
Proctors for Appellants.

103 APRIL 25TH, 1873.

I accept service of foregoing. Further notice waived.
(Not signed)

(Endorsements:) C. S. 728. Charles Andre, claimant, et al., v. The United States. Appeal. Filed April 30, '73. C. Dart, clk. Appeal ordered. Amos Morrill, judge.

Appeal-bond from dist. to circ't court.—Filed April 25th, 1873.

In the district court of the United States, eastern district of Texas.
December term, 1872.

THE UNITED STATES
vs.
199 BARRELS WHISKEY, CHARLES ANDRE claimant. } Case No. 25.

Know all men by these presents that we, Charles Andre and Gustave Oppermann, and Sam. Maas, Jno. Berlocher, & Jno. K. Spiers, are
104 held and firmly bound in the sum of fifteen thousand dollars to the United States of America, to be paid thereto; for which payment, well and truly to be made, we bind ourselves and each of us, and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals this 25th day of April, A. D. 1873.

Whereas said Charles Andre, G. Oppermann, & Sam. Maas has presented an appeal to the circuit court of the United States in the eastern district of Texas, to be holden at Galveston, in said eastern district of Texas, to reverse a judgment rendered in the above cause by the district court of said district:

Now, the condition of this obligation is such that if the above-bounden Charles Andre, G. Oppermann, & Sam. Maas shall prosecute their appeal to effect and answer all damages, interest, and costs if they fail to make their appeal good, then this obligation to be void; otherwise to be and remain in full force and virtue.

CHAS. ANDRE. [SEAL.]
G. OPPERMANN. [SEAL.]
105 SAM. MAAS. [SEAL.]
JOHN BERLOCHER.
JNO. K. SPEIRS.

Acknowledged before me April 25, 1873, by G. Oppermann & Sam. Maas.

GEO. C. RIVES, *Clk.*,
By C. DART, *Dept.*

Acknowledged before me, by John Berlocher & Jno. K. Speirs, April 25, '73.

GEO. C. RIVES, *Clk.*,
By C. DART, *Dept.*

Gustave Oppermann & Sam Maas, being duly sworn, each for himself deposes and says that he is worth the sum of fifteen thousand dollars over and above all his just debts, liabilities, and exemptions, and that they each have property within the eastern district of Texas liable to execution for said amount.

G. OPPERMANN.
SAM. MAAS.

Sworn to & subsc'd before me April 25th, 1873.

GEO. C. RIVES, *Clk.*,
By C. DART, *Dept.*

John Berlocher and John K. Speirs, being duly sworn, each for
106 himself deposes and says that he is worth the sum of fifteen thousand dollars over and above all his just debts, liabilities, and exemptions, and that they each have property within the eastern district of Texas liable to execution for said amount.

JOHN BERLOCHER.
JNO. K. SPEIRS.

Sworn to & subsc'd before me April 25, '73.

GEO. C. RIVES, *Clk.*,
By C. DART, *Dept.*

(Endorsed in margin of 1st page:) Approved, Amos Morrill, judge.

(Endorsed on back:) A. D. 25, C. L. 727. The United States v. 199 Barrels of Whiskey. Appeal bond. Filed April 25th, 1873. Geo. C. Rives, clk., by C. Dart, dept. Filed April 30th, 1873. C. Dart, clk.

Appeal-bond for costs in ci't court.—Filed April 30, 1873.

In the district court of the United States, eastern district of Texas.
Dec'r term, 1872.

107 THE UNITED STATES
vs.
199 BARRELS WHISKEY, CHAS. ANDRE CLAIMANT. } No. 25.

Know all men by these presents that we, Chas. Andre and G. Oppermann, Sam. Maas, J. Reymershoffer, Reymershoffer, are held and firmly bound in the sum three hundred dollars to the United States of America, to be paid thereto, for which payment well and truly to be made, we bind ourselves and each of us, and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals this 25th day of April, 1873.

Whereas said Charles Andre, Gustave Oppermann, & Sam. Maas, has prosecuted an appeal to the circuit court of the United States in the eastern district of Texas, to be held at Galveston in said eastern district of Texas, to reverse a judgment and decree rendered in the above cause by the district court of said district:

Now the condition of this obligation is such, that if the above-bunden Chas. Andre, G. Oppermann, & Sam Maas, shall prosecute his
108 appeal to effect and answer all costs in said cause and just damages for delay, and costs and interest on the appeal, then this obligation to be void; otherwise to be and remain in full force and virtue.

CHAS. ANDRE. [SEAL.
J. REYMERSHOFFER, JR. [SEAL.]
J. REYMERSHOFFER, SR. [SEAL.]
G. OPPERMANN.
SAM. MAAS.

I, J. Reymershoffer, sr., do solemnly swear that I am worth the sum of three hundred dollars over and above all my just debts and liabilities.

J. REYMERSHOFFER, SR.

Sworn to & subsc'd before me Mch. 3, 1873.

GEO. C. RIVES, *Clk.*,
By C. DART, *Dept.*

I, J. Reymershoffer, jr., do solemnly swear that I am worth the sum of three hundred dollars over and above all my just debts and liabilities.

J. REYMERSHOFFER, JR.

Sworn to & sub'r'ed before me March 3d, 1873.

GEO. C. RIVES, *Clk.*,
By C. DART, *Dept.*

109 (Endorsed:) No. 25. C. L., 728. Appeal bond. Chas. Andre, claimant 199 bbls. whiskey. Filed April 30th, 1873. C. Dart, clk.

Order to transfer papers, etc.—Filed April 30, 1873.

In the United States district court eastern district of Texas.

THE UNITED STATES
v.
199 BARRELS OF WHISKEY. } No. 25. In admiralty.

and

THE UNITED STATES
v.
100 BARRELS OF WHISKEY. } No. 26. In admiralty.

The claimant in the above entitled and numbered causes, Charles Andre, having prosecuted an appeal from the judgment rendered by this court in said causes to the next circuit court of the United States for said district, to be holden at the city of Galveston, on the 5th day of May, 1873: Now, on motion of the claimant, it is ordered that
110 the clerk of this court transfer to said circuit court the original papers on file in said causes, together with certified copies from the minutes of this court of such orders and decrees as may be entered therein, for use in said circuit court on appeal.

April 30th, 1873.

AMOS MORRILL, *Judge.*

(Endorsements:) A. D., 25. C. L. 728. The United States v. 199 Barrels of Whiskey, and No. 26, The United States v. 100 Barrels Whiskey. Order to transfer papers, etc. Filed April 30, '73. Geo. C. Rives, clk., by C. Dart, dept.

Amended answer.—Filed Feb'y 27, 1874.

THE UNITED STATES
vs.
199 BARRELS OF WHISKEY. } No. 728. In admiralty.

111 Circuit court of the United States, eastern district of Texas, Galveston. December term, 1873.

Claimant, for answer, propounds as follows, to wit:

First. There was not any valid subsisting seizure of the "res" as forfeited to the United States, existing at the time the libel of information herein was filed, on, to wit, the 16th day of April, A. D. 1867.

Second. Three barrels of the "res" has not been returned to claimant, although often requested.

Third. The several causes of action set forth in the libel and amended libel, nor any or either (of them, if any such ever existed,) did not accrue to libellant at any time within five years next preceding the filing of this libel.

Wherefore claimant prays that he be dismissed with cost, and for such other and further relief as unto the court may seem meet and just in the premises, & will ever pray, &c.

BURROUGHS & ALLEN,
Proctors.

(Endorsed:) No. 728. The United States v. 199 Barrels of
112 Whiskey; C. Andre, claimant. Amended answer. Filed Feb'y 28th, 1874. C. Dart, clk.

Decree in circuit court.

(From the minutes May term, May 27th, 1874.)

In United States circuit court, eastern district of Texas, before the Hon. Joseph P. Bradley, judge.

THE UNITED STATES
v.
199 BARRELS OF WHISKEY. } No. 728. On appeal.

This cause came on to be heard at this term, the United States of America appearing by the district attorney, and the claimant of the property seized and libelled in this cause, Charles Andre, by Messrs. Burroughs & Allen, his proctors, and thereupon, the court having heard the pleadings and the evidence and argument of counsel, and having duly considered the same, and the court being now fully advised in the premises, doth order, adjudge, and decree as follows: That the allegations of the libel herein filed be sustained, and the one hundred
113 and ninety-nine barrels of whiskey libelled in this cause be, and the same are hereby, declared condemned and forfeited to the United States of America, for the reasons and causes in the libel set forth.

And it appearing to the court that the property herein (except three barrels of said whiskey) was delivered to said claimant upon a stipulation duly executed by said claimant and by G. Oppermann and Sam Maas, sureties, dated June 21st, 1867, and filed in this cause, at its appraised value, the same being the sum of six thousand six hundred and thirty-six dollars and fifty cents, ($6,636.50:)

Wherefore it is further considered and adjudged by the court that said claimant, Charles Andre, shall, within twenty days from this date, pay into the registry of this court, and unto the clerk thereof, the sum of six thousand five hundred and thirty-six $\frac{45}{100}$ dollars, ($6,536.45,) being the appraised value of said whiskey, $6,636.50, less the sum of $100.05, the proportionate value of the said three barrels not delivered to the claimant, with interest thereon at six per cent. per annum from
114 the 21st day of July, 1868, the date of the rendition of the decree of condemnation in the district court, to this date, two thousand two hundred and forty $\frac{69}{100}$ dollars, ($2,240.69,) making in the aggregate the sum of eight thousand seven hundred and seventy-seven $\frac{14}{100}$ dollars, ($8,777.14;) also all the costs of this suit, to be taxed by the clerk, and in default thereof then that execution issue against said Charles Andre, claimant, and Gustav Oppermann, Sam Maas, John Berlocher, and John K. Speirs, the sureties upon his stipulation filed in this court, for the said sum of $8,777.14, with the interest accrued thereon and the said costs.

Order as to Stapp.

(From minutes May term, May 27th, 1874.)

THE UNITED STATES
v.
199 BARRELS OF WHISKEY. } 728.

Upon consideration of the petition of Milton Stapp, late collector of

internal revenue for the first district of Texas, it is ordered that there be taxed, as part of the costs of this cause, the sum of four hun-
115 dred and fifty-eight $\frac{50}{100}$ dollars, being the bill for storage of said property in the bonded warehouse of A. K. Lee, while the said property was in the custody of the marshal, under the orders of this court, the same to be paid out of the proceeds in this cause when the same shall be realized; and it appearing to the court that there are conflicting claims to said fund which will require the future adjudication of this court, it is ordered that the same, when paid as aforesaid, shall be retained for further order as to the distribution thereof.

Order allowing appeal from circ't to Supreme Court.

(From the minutes May term, May 29th, 1874.)

THE UNITED STATES
v. } 728.
199 BARRELS OF WHISKEY.

The claimant & respondent, Charles Andre, having given notice upon the rendition of the decree in this cause, the district attorney being present, of his desire to appeal to the Supreme Court of the United States from the decree of this court in this cause, the said appeal is
116 allowed, and the appeal-bond to be executed by said claimant and respondent to perfect said appeal is hereby fixed at double the amount of the judgment in this cause, to wit, at the sum of seventeen thousand five hundred and fifty-four $\frac{28}{100}$ dollars.

Appeal-bond.—(*Filed June 22d*, 1874.)

Circuit court of the United States of America, eastern district of Texas, in the fifth circuit.

199 BARRELS OF WHISKEY, CHARLES ANDRE, claimant, & he & his sureties, Gustave Oppermann & Sam Maas, John Berlocher, & John K. Speirs, appellants,
vs.
THE UNITED STATES, LIBELLANT AND APPELLEE.

Know all men by these presents that we, Charles Andre, Gustave Oppermann, Sam Maas, John Berlocher, John K. Speirs, and Charles H. Ruff, & Max Maas, of the city of Galveston, in the county of Galveston, in the State of Texas, are held and firmly bound unto the United
117 States in the sum of seventeen thousand eight hundred dollars, to be paid to the said appellee, for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated the eighth day of June, in the year of our Lord one thousand eight hundred and seventy-four.

Whereas the above-named appellants have prosecuted an appeal to the Supreme Court of the United States, at the city of Washington, in the District of Columbia, to reverse the decree rendered in the above suit by the circuit court of the United States for the eastern district of Texas:

Now, therefore, the condition of this obligation is such, that if the above-named appellants shall prosecute their appeal to effect and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

CHARLES ANDRE. [SEAL.]
118 GUSTAVE OPPERMANN. [SEAL.]
SAM MAAS. [SEAL.]
JNO. K. SPEIRS. [SEAL.]
JOHN BERLOCHER. [SEAL.]
CHARLES H. RUFF. [SEAL.]
MAX MAAS. [SEAL.]

Acknowledged before me June 20th, 1874, by Charles H. Ruff & Max Maas, the sureties on the within bond.

C. DART,
Clerk U. S. Circ't Court, E. D. T., G.

(Endorsed in margin:) Bond approved. Amos Morrill, judge.

Charles H. Ruff and Max Maas, being duly sworn, depose and say, and each for himself saith, that he is worth the sum of seventeen thousand and eight hundred dollars over and above all his just debts and liabilities.

CHARLES H. RUFF.
MAX MAAS.

Sworn to and subscribed before me June 20, 1874.

C. DART,
Clerk U. S. Circ't Court, E. D. T., G.

119 (Foregoing bond endorsed on back:) C. L. 728. The United States v. 199 Barrels of Whiskey. Appeal-bond. Filed June 22d, 1874. C. Dart, clk.

120 In the circuit court of the United States for the eastern district of Texas.

I, C. Dart, clerk of the circuit court of the United States for the eastern district of Texas, at Galveston, do hereby certify the foregoing one hundred and nineteen (119) pages of writing to be a true copy of the record and of all proceedings in the cause named at the beginning hereof, as the same now appears on file and of record in my office.

To certify which witness my hand and seal of said circuit court, at office in the city of Galveston, in said district, on the 11th day of August, A. D. 1874, and of American Independence the ninety-ninth year.

[SEAL.] C. DART,
Clerk U. S. Circ't Court E. D. T., at Galveston.

(Indorsement on cover:) No. 147. 199 Barrels of Whiskey, Charles Andre, claimant, appellant, vs. The United States, E. Texas C. C. U. S. Filed 15th October, 1874.

internal revenue for the first district of Texas, it is ordered that there be taxed, as part of the costs of this cause, the sum of four hun-
115 dred and fifty-eight $\frac{50}{100}$ dollars, being the bill for storage of said property in the bonded warehouse of A. K. Lee, while the said property was in the custody of the marshal, under the orders of this court, the same to be paid out of the proceeds in this cause when the same shall be realized; and it appearing to the court that there are conflicting claims to said fund which will require the future adjudication of this court, it is ordered that the same, when paid as aforesaid, shall be retained for further order as to the distribution thereof.

Order allowing appeal from circ't to Supreme Court.

(From the minutes May term, May 29th, 1874.)

THE UNITED STATES
v.
199 BARRELS OF WHISKEY. } 728.

The claimant & respondent, Charles Andre, having given notice upon the rendition of the decree in this cause, the district attorney being present, of his desire to appeal to the Supreme Court of the United States from the decree of this court in this cause, the said appeal is
116 allowed, and the appeal-bond to be executed by said claimant and respondent to perfect said appeal is hereby fixed at double the amount of the judgment in this cause, to wit, at the sum of seventeen thousand five hundred and fifty-four $\frac{28}{100}$ dollars.

Appeal-bond.—(*Filed June 22d*, 1874.)

Circuit court of the United States of America, eastern district of Texas, in the fifth circuit.

199 BARRELS OF WHISKEY, CHARLES ANDRE, claimant, & he & his sureties, Gustave Oppermann & Sam Maas, John Berlocher, & John K. Speirs, appellants,
vs.
THE UNITED STATES, LIBELLANT AND APPELLEE.

Know all men by these presents that we, Charles Andre, Gustave Oppermann, Sam Maas, John Berlocher, John K. Speirs, and Charles H. Ruff, & Max Maas, of the city of Galveston, in the county of Galveston, in the State of Texas, are held and firmly bound unto the United
117 States in the sum of seventeen thousand eight hundred dollars, to be paid to the said appellee, for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated the eighth day of June, in the year of our Lord one thousand eight hundred and seventy-four.

Whereas the above-named appellants have prosecuted an appeal to the Supreme Court of the United States, at the city of Washington, in the District of Columbia, to reverse the decree rendered in the above suit by the circuit court of the United States for the eastern district of Texas:

Now, therefore, the condition of this obligation is such, that if the above-named appellants shall prosecute their appeal to effect and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

	CHARLES ANDRE.	[SEAL.]
118	GUSTAVE OPPERMANN.	[SEAL.]
	SAM MAAS.	[SEAL.]
	JNO. K. SPEIRS.	[SEAL.]
	JOHN BERLOCHER.	[SEAL.]
	CHARLES H. RUFF.	[SEAL.]
	MAX MAAS.	[SEAL.]

Acknowledged before me June 20th, 1874, by Charles H. Ruff & Max Maas, the sureties on the within bond.

C. DART,
Clerk U. S. Circ't Court, E. D. T., G.

(Endorsed in margin:) Bond approved. Amos Morrill, judge.

Charles H. Ruff and Max Maas, being duly sworn, depose and say, and each for himself saith, that he is worth the sum of seventeen thousand and eight hundred dollars over and above all his just debts and liabilities.

CHARLES H. RUFF.
MAX MAAS.

Sworn to and subscribed before me June 20, 1874.

C. DART,
Clerk U. S. Circ't Court, E. D. T., G.

119 (Foregoing bond endorsed on back:) C. L. 728. The United States v. 199 Barrels of Whiskey. Appeal-bond. Filed June 22d, 1874. C. Dart, clk.

120 In the circuit court of the United States for the eastern district of Texas.

I, C. Dart, clerk of the circuit court of the United States for the eastern district of Texas, at Galveston, do hereby certify the foregoing one hundred and nineteen (119) pages of writing to be a true copy of the record and of all proceedings in the cause named at the beginning hereof, as the same now appears on file and of record in my office.

To certify which witness my hand and seal of said circuit court, at office in the city of Galveston, in said district, on the 11th day of August, A. D. 1874, and of American Independence the ninety-ninth year.

[SEAL.] C. DART,
Clerk U. S. Circ't Court E. D. T., at Galveston.

(Indorsement on cover:) No. 147. 199 Barrels of Whiskey, Charles Andre, claimant, appellant, vs. The United States, E. Texas C. C. U. S. Filed 15th October, 1874.